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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

**Tuesday, February 5, 2002**

—  
**THE HONOURABLE DAN HAYS  
SPEAKER**

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry, and Senators serving on Standing, Special and Joint Committees.





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## THE SENATE

Tuesday, February 5, 2002

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

### NEW SENATOR

**The Hon. the Speaker:** Honourable senators, I have the honour to inform the Senate that the Clerk has received a certificate from the Registrar General of Canada showing that the Honourable Ronald J. Duhamel P.C. has been summoned to the Senate.

### INTRODUCTION

**The Hon. the Speaker** having informed the Senate that there was a senator without, waiting to be introduced:

The following honourable senator was introduced; presented Her Majesty's writ of summons; took the oath prescribed by law, which was administered by the Clerk; and was seated:

**Hon. Ronald J. Duhamel**, of Winnipeg, Manitoba, introduced between Hon. Sharon Carstairs and Hon. Richard H. Kroft.

**The Hon. the Speaker** informed the Senate that the honourable senator named above had made and subscribed the declaration of qualification required by the Constitution Act, 1867, in the presence of the Clerk of the Senate, the Commissioner appointed to receive and witness the said declaration.

•(1410)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is with a great deal of pleasure that I rise today to welcome a new colleague and a very good friend to the Senate, namely, the Honourable Ron Duhamel.

[Translation]

I have known Senator Duhamel both professionally and personally for a long time. We both have the privilege and pleasure of representing the people of the province of Manitoba. The Senate will now have the privilege of benefiting from his vast store of knowledge.

Honourable senators are, no doubt, aware that he was elected to the House of Commons for the first time in 1988. He has held a number of positions, including several as parliamentary secretary. More recently, he held three portfolios simultaneously: Minister of Veterans Affairs, Secretary of State responsible for the Francophonie, and Secretary of State for Western Economic Diversification.

Senator Duhamel is well known for his exceptional service to the people of St. Boniface, Winnipeg and Manitoba as a whole. In 1994, he was made a chevalier, or knight, of the Ordre de la Pléiade, and in 2000, appointed an officer of the Assemblée parlementaire de la Francophonie, Canadian division. We are certain that his senatorial duties will have no effect whatsoever on his devotion to his province.

[English]

Honourable senators, Senator Duhamel and I have had some interesting experiences together — I, as a critic of education in the province of Manitoba, and he as the deputy minister of that same department. I think one of our funniest experiences occurred when I was giving a speech on his behalf in the St. Boniface constituency.

My husband is a bit of a wiggler, and the stage had been set up in such a way that there was a space between the backdrop and the end of the platform. I had begun my speech and was talking about how wonderful my friend was, how eloquent he was and how he deserved to be the member from St. Boniface, at which point my husband John disappeared off the stage and jack-knifed himself between the display at the back and the platform. Senator Duhamel and I were not sure what we should do at that particular point in time, so we left John hanging there while we completed our speeches. He and I have been through many positive experiences, and I am delighted to have him here in the chamber with me.

[Translation]

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, those of us who knew the late and sorely missed Gildas Molgat well, both here and elsewhere, were extremely anxious to learn who would be taking over from him.

Even though Senator Duhamel might well have preferred to remain in his elected position and his ministerial duties, we cannot help but rejoice at his coming to the Senate. It will benefit greatly from his long political experience and particular knowledge of the ins and outs of government. Manitoba can rejoice that it will continue to be as ably represented as it was by his predecessor.

[English]

In a note accompanying his Christmas card, Senator Duhamel spoke of the past year as one of challenge "for some of us personally," as he put it, and that "the measure of an individual or of a nation is not so much tested by prosperity as it is by adversity." Such a positive attitude under difficult conditions speaks well of our new colleague and certainly augurs well for this institution. All on this side join with me in wishing Senator Duhamel the very best as he assumes his new responsibilities.



## SENATORS' STATEMENTS

[Translation]

## NOVA SCOTIA

CAPE BRETON—COMPLIANCE OF MEMBERTOU BAND WITH  
INTERNATIONAL STANDARDS ORGANIZATION

**Hon. B. Alasdair Graham:** Honourable senators, many of us are aware that the International Organization for Standardization sets very high standards. An ISO designation means that customers can be assured that the business they are dealing with has achieved a very high level of product quality and service and is fully qualified to compete in the global market economy.

Most Canadians do not think of ISO designations when they think of our First Nations and indigenous peoples. We tend to think about unemployment and children in crisis; we tend to think of inordinately high health and social challenges.

Until six years ago, some of those descriptive phrases might have been applied to a small Cape Breton Mi'kmaq band known as Membertou. The fighting spirit of this talented community located within the city of Sydney has been personified over time by their best-known resident, Donald Marshall Jr. Behind the scenes of the dramatic *Marshall* case, the community was retooling and revitalizing to build an entrepreneurial economy uniquely poised to score big victories in the international marketplace. Through the fine leadership of people like former Bay Street lawyer, now Membertou CEO, Bernd Christmas and Chief Terrance Paul, the community said no to debt, got their financial house in order and jumped into a host of joint ventures. With an exceptional ability to attract private partners and investment, the community signed deals with the likes of Sodexo Canada, Clearwater Fine Foods, SNC-Lavalin and major U.S. mining firm Georgia-Pacific.

Last week, in a historic ceremony, this remarkable Mi'kmaq community became the first native government in North America to become ISO compliant. In Membertou, traditional indigenous values and the values of the global marketplace now live as one.

I might add that the name Mi'kmaq derives from the term "nikmaq," a word in the language that means "my kin-friends," which was used as a greeting in the early 1600s to French and Basque fishermen. The French, in turn, would greet the First Nations people by saying "nikmaq," or "my brothers." May I do the same today and salute you, nikmaq, my fellow Cape Bretoners, my fellow Nova Scotians, my fellow Canadians from Membertou, and offer you my heartiest congratulations for a job well done.

## BLACK HISTORY MONTH

**Hon. Donald H. Oliver:** Honourable senators, this is February again, Black History Month. It is a time to read, reflect, listen and dream. And yes, to dream, like Martin Luther King, dream that someday we could all sit at the same table, as equals, and not be judged unfairly just because of the colour of our skin. Unfortunately, today's reality is very different.

We cannot be free unless we are treated as equals. Black people must have the same career opportunities as white people. Unfortunately, honourable senators, we have not made much progress in this respect in Canada. Black people are not free and they are not white people's equals.

Let us begin by looking around here, in the Senate of Canada, and ask ourselves if we truly represent Canada's diversity. We know that in our own public service racism still prevents members of the black community and visible minorities from holding positions of importance and authority. For example, how many of you have met with a black deputy minister? No one, because there are none.

[English]

We know that our universities are rife with racism that acts imposingly to prevent the advancement of Blacks to senior academic and administrative positions. The same is true on Bay Street.

•(1420)

Honourable senators, the day will come when you may be called upon to speak out against racism against Blacks, and I remind you of words of Martin Luther King:

The ultimate measure of a man is not where he stands in moments of comfort and convenience, but where he stands at times of challenge and controversy.

Honourable senators, I will be happy when I do not have to stand here in my place to remind Canadians why we need a month to remind others of our contribution to this country, and why we have a right to be treated as equals. As you know, it was the educator Carter Woodson who thought of the idea for Black History Month. It was his view that the knowledge and dissemination of African history would, besides building self-esteem among Blacks, help to eliminate prejudice among Whites.

Honourable senators, I will be giving some eleven speeches across Canada in connection with Black History Month, and I hope you will take advantage of the opportunity to learn more about the exciting history and culture of Blacks in Canada.



[Translation]

## MONTFORT HOSPITAL OF OTTAWA

### LEGAL VICTORY

**Hon. Jean-Robert Gauthier:** Honourable senators, I want to thank all those who helped us get justice in the case of Montfort Hospital.

This hospital is very important and is a symbol for Ontario's French-language community.

Montfort will continue to welcome all Canadians in the official language of their choice. The important thing is that Montfort will remain the only Ontario hospital to work and teach in French. Doctors, nurses, physiotherapists — the whole caregiving staff will be bilingual in that hospital — will be able to get quality training at Montfort.

That hospital was built in 1953 by the Soeurs de la Sagesse. Believe it or not, I was present at the hospital's inauguration. I was not surprised by the government's decision not to seek the opinion of the Supreme Court of Canada. What a relief! It took two majority decisions issued by two higher courts in Ontario to convince the government of the merits of the case and to have the Montfort Hospital recognized as being essential to the existence of Ontario's francophone community.

Many, many thanks to all of you who tirelessly supported these appeals through the courts. Congratulations to the S.O.S. Montfort team.

The rallying cry of the region's francophone community was: "Close the Montfort? Never!" Today, I would echo this with "Montfort open? Forever!"

## OFFICIAL LANGUAGES

### PROTECTION OF LINGUISTIC RIGHTS

**Hon. Serge Joyal:** Honourable senators, last Friday, February 1, the Government of Ontario announced that it was bowing to the unanimous decision of the province's Court of Appeal confirming the Divisional Court's ruling of two years ago that the Montfort Hospital was protected under the constitution. Franco-Ontarians will now benefit not only from health services wholly in French, but the institution will be able to continue to serve as a training centre for health professionals, the only one of its kind in Ontario.

We must pay tribute to the convictions, the courage, indeed the heroism of Gisèle Lalonde, who, against all the odds, succeeded in putting together a large coalition and leading a legal battle against the political stubbornness of the largest provincial government in the country. This is quite an achievement.

How is the future of the Montfort, as an essential French-language institution, henceforth assured? The answer is simple. It is assured because the courts provided protection when the political will of the majority failed and it decided to reduce the institution to a sort of large regional clinic. The strangest thing of the entire saga is that, just as the survival of the Montfort is being guaranteed by the courts, there are people who are questioning the usefulness of legal challenges in the protection of minority rights. What use is the constitutional protection of rights and freedoms if these same linguistic rights, which are recognized for minorities in this country, are not protected against the political arbitrariness of the governments of the day? Is this not the fundamental purpose of the Charter? Yes, it provides minorities with real protection against the whims and changes in mood of majorities, which need neither charters nor courts for protection.

It was for this reason that, in 1983, as Secretary of State of Canada, I set up a program to fund court challenges based on the Charter of Rights and Freedoms, particularly those having to do with the protection of language rights. For the past 20 years, if people had not turned to the Canadian courts to have their language rights recognized, for example, anglophones in Quebec would not see their language on public signs in the province. The right of francophones elsewhere in the country to manage their school boards would not have been recognized. The francophones of Summerside, Prince Edward Island, would not have been able to enter their new school and community centre this week after 12 years of court battles. Franco-Manitobans, one of whom we welcomed to this place today, would not have access to legislation and services in French in their province.

Yes, it was George Forest's 1984 court challenge of a parking ticket that repaired 100 years of injustice in Manitoba. The Federal Appeals Court decision, which the President of the Privy Council complained about last week, did not really focus, *per se*, on the issuing of bilingual tickets. In fact, the decision forbids the Government of Canada from transferring responsibilities to the provinces, which has the practical effect of denying minorities access to services in their language. This is significant.

Let us applaud and support minorities that fight for their rights before the courts when the political powers of the day do not live up to their constitutional responsibilities and maintain the ideal of the equality of linguistic rights that guarantee the future of Canada.

[English]

## NATIONAL EDITORIALS BY SOUTHAM NEWSPAPER CHAIN

**Hon. Laurier L. LaPierre:** Honourable senators, I should like to read to you, in part, a letter that I wrote to the *Ottawa Citizen* that was published on January 11, 2002:



Like everyone else in our country, I am disturbed by the imposition of a "national editorial" on the *Ottawa Citizen* and the other Southam newspapers. I am even more distraught by the decision made by your owners that you are not allowed to editorially contradict the holy writ. I have no doubt that in a short while, columnists, op-ed writers, reporters, et cetera will be subject to the non-contradiction rule. In no time, as well, the public affairs and news departments of the Global Network will be so dictated too.

This is a most dangerous situation, a situation that imperils the fundamental right of Canadians to a diversity of information.

In the light of this development, I have decided to act.

When the Senate returns from the Christmas break, I intend to propose the undertaking of a special study on the impact of the concentration of ownership in the media upon the quality and diversity of information and of entertainment.

It is my wish that honourable senators will agree with me that this is an important matter that deserves to be looked into by the Senate. Much has changed since the Kent report.

[Translation]

## THE LATE JUSTICE WILLARD ZEBEDEE ESTEY, C.C.

### TRIBUTE

**Hon. Gérard-A. Beaudoin:** Honourable senators, former Justice of the Supreme Court of Canada, Justice Willard Zebedee (Bud) Estey, passed away on January 24.

Born in Saskatchewan in 1919, Bud Estey studied at the University of Saskatchewan and at Harvard Law School. He practiced law for some thirty years before being appointed to the Ontario Court of Appeal in 1973 and becoming Chief Justice in 1976.

He sat on the Supreme Court of Canada from 1977 to 1988. He drafted the first major judgment on the Canadian Charter of Rights and Freedoms, the *Skapinker* judgment, in 1984. In this unanimous judgment, he stated:

The *Charter* comes from neither level of the legislative branches of government but from the Constitution itself. It is part of the fabric of Canadian law. Indeed, it "is the supreme law of Canada."

[...]

With the *Constitution Act, 1982* comes a new dimension, a new yardstick of reconciliation between the individual and the community and their respective rights, a dimension which, like the balance of the Constitution, remains to be interpreted and applied by the Court.

Over the course of his lengthy career, he also distinguished himself by chairing a number of royal commissions.

More recently, he appeared before the Senate Committee on Aboriginal Peoples to comment on the agreement between the Nisga'a of British Columbia, the government of that province and the Government of Canada.

Honourable senators, Canada has lost an excellent legal mind. I offer my sincere condolences to the Estey family.

• (1430)

[English]

## ROUTINE PROCEEDINGS

### MINISTER OF HEALTH AND MINISTER WITH SPECIAL RESPONSIBILITY FOR PALLIATIVE CARE

#### LETTER OF UPDATE ON FEDERAL ACTIVITIES REGARDING PALLIATIVE CARE TABLED

**Hon. Michael Kirby:** With leave of the Senate, I should like to table a letter from the Minister of Health and the Minister with Special Responsibility for Palliative Care.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Kirby:** Honourable senators, I have a letter signed by the Honourable Allan Rock, Minister of Health, and by the Honourable Sharon Carstairs, Leader of the Government in the Senate and Minister with Special Responsibility for Palliative Care. This letter was received in my office in December 2001.

The purpose of the letter is to provide an update of federal activities in the area of palliative care and end-of-life care, since the tabling of the report entitled "Quality End-of-Life Care: The Right of Every Canadian," in June, 2000, by the Subcommittee to Update "Of Life and Death," of the Standing Senate Committee on Social Affairs, Science and Technology.

### STATE OF HEALTH CARE SYSTEM

#### INTERIM REPORTS OF SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY COMMITTEE TABLED

**Hon. Michael Kirby:** Honourable senators, pursuant to the order adopted by the Senate on Thursday, March 1, 2001, I have the pleasure to inform the Senate that on Tuesday, January 29, 2002, the fifteenth report of the Standing Senate Committee on Social Affairs, Science and Technology, which is an interim report on the study of the state of the health care system in Canada entitled: "Volume 2: Current Trends and Future Challenges," was deposited with the Clerk of the Senate.

As well, honourable senators, pursuant to the order adopted by the Senate on Thursday, March 1, 2001, I have the pleasure to inform the Senate that on Tuesday, January 29, 2002, the sixteenth report of the Standing Senate Committee on Social Affairs, Science and Technology, which is an interim report on the study of state of the health care system in Canada, entitled: "Volume 3: Health Care Systems in Other Countries," was deposited with the Clerk of the Senate.

## CANADIAN NATO PARLIAMENTARY ASSOCIATION

MEETING OF SUBCOMMITTEE ON FUTURE SECURITY AND  
DEFENCE CAPABILITIES, DECEMBER 9-13, 2001—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Shirley Maheu:** Honourable senators, I have the honour to table the tenth report of the Canadian NATO Parliamentary Association, which represented Canada at the meeting of the Subcommittee on Future Security and Defence Capabilities of the NATO Parliamentary Assembly, held in Romania and Bulgaria from December 9 to 13, 2001.

## STATUS OF PALLIATIVE CARE

NOTICE OF INQUIRY

**Hon. Michael Kirby:** Honourable senators, I give notice that on Thursday, next, February 7, 2002, I will draw the attention of the Senate to the status of palliative care in Canada.

## QUESTION PERIOD

### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

INTERIM REPORTS ON STATE OF HEALTH CARE  
SYSTEM—STATUS ON ORDERS OF THE DAY

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I have a question for the Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, the Honourable Michael Kirby. Is it the senator's intention to have the fifteenth and the sixteenth reports tabled with the Clerk of the Senate placed on the Orders of the Day for consideration and adoption by the Senate?

**Hon. Michael Kirby:** I thank the honourable senator for the question. I would be happy to do that. However, they are essentially background documents. Volume 2 describes the factors that are driving health care costs in Canada, and volume 3 describes the nature and structure of health care systems in other countries. The committee will issue, shortly after Easter, a report that I am hopeful will be debated and ultimately adopted by the Senate. That report will deal with both Senate principles and a series of specific recommendations in respect of how the health care system should be reformed.

[ Senator Kirby ]

Honourable senators, it would make more sense to have a debate over specific recommendations than over useful but, nevertheless, background documentation.

## NATIONAL DEFENCE

WAR IN AFGHANISTAN—ASSURANCE THAT PRISONERS TURNED  
OVER TO UNITED STATES NOT FACE CAPITAL PUNISHMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** My question is for the Leader of the Government in the Senate. Honourable senators, this house and the other place, in the not-too-distant past, adopted legislation limiting the extradition of a person in Canada or in Canadian custody to a United States jurisdiction that imposes the death penalty. Clearly, that is the principle by which the Parliament of Canada operates.

Did the Government of Canada seek an assurance from the Government of the United States that any prisoners captured by Canadian forces in the war on terrorism and turned over to the United States would not be subject to execution?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, to the best of my knowledge that assurance was not sought because we are dealing with a situation whereby some definitions make these detainees prisoners of war and other definitions, particularly in the United States, make them unlawful combatants. We do not know what procedures will be employed.

As the honourable senator knows, most of the prisoners are still in Afghanistan. They have not been taken to the United States, and certainly, those that we had anything to do with are still in Kandahar. Those prisoners are not in Guantanamo, and they are not in the United States.

**Senator Kinsella:** Honourable senators will also recall that this house and the other place passed legislation repealing the provision in the National Defence Act that made the death penalty possible. Consequently, the Canadian value is clear. One therefore has to ask: Did the Government of Canada seek or receive any assurance prior to the JTF2 group landing in Afghanistan, which had captured the detainees and then turned them over to the United States?

**Senator Carstairs:** As the honourable senator may know, the Geneva Convention does not prohibit the death penalty. It has been the principal concern that the Geneva Convention be followed in this particular instance.

**Senator Kinsella:** Honourable senators, this brings us to the quick of the issue: the question of Canadian values. The work of Mr. Henri Dunant and the complete array of international humanitarian law, whilst helpful on the international plane, is a minimum standard. I am speaking to a value that has been adopted by this house and by the other place that proscribes capital punishment.



Is there a way for Canadians to receive assurance from this government that our Canadian values will guide us when a terrorist is apprehended, or member of al-Qaeda or the Taliban, whether in the Afghanistan forum or elsewhere, as this struggle against terrorism, which we all support, continues?

**Senator Carstairs:** Honourable senators, one of the values that Canadians hold high is that the Geneva Conventions will be followed throughout the course of these efforts. One of the issues, of course, upon which there is a disagreement between Canada and the United States, is the way in which the detainees are to be defined. If the term "unlawful combatant" is to be used, should we have a tribunal that would determine whether the detainee is to be deemed a prisoner of war or an unlawful combatant? We have continued to pressure the United States on that file, and we will continue to seek assurances that there will be independent tribunals of this nature. I will raise with my cabinet colleagues the further question with respect to the death penalty.

• (1440)

#### WAR IN AFGHANISTAN—POSSIBILITY OF PRISONERS BEING TRIED UNDER LAWS OF COUNTRY OF ORIGIN

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, several of our colleague countries in NATO have already indicated that citizens or nationals of their country who are in detention as suspected al-Qaeda or Taliban terrorists and are being held by the United States ought to be turned over to those respective countries for trial pursuant to the judicial system of those countries. What is the position of the Government of Canada with respect to a Canadian citizen who becomes a prisoner? Will Canada seek to have those prisoners turned over to Canada by the United States and tried pursuant to Canadian justice?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not have the details on the specificity of the honourable senator's question. I will seek that information and return it to the chamber as soon as possible.

## FINANCE

### INVESTMENT MARKET— CHANGE TO LIMIT OF FOREIGN OWNERSHIP

**Hon. David Tkachuk:** Honourable senators, the federal government currently limits the amount of foreign investment Canadians can hold in their investment portfolios. The limit is now 30 per cent, which was increased last January from 20 per cent. There have been many calls to change this limit by having it either increased or abolished. The Senate Banking Committee, as well as the managers of large pension funds, has called for its abolishment.

Recently, Thomas Gunn of the Ontario Municipal Employees' Retirement Fund, which manages \$35 million on behalf of municipal employees, police officers and firefighters in Ontario, said in the *Financial Post* that foreign investment limits have

actually encouraged foreign ownership of Canadian companies rather than the opposite. Mr. Gunn also said that the original rationale for the foreign investment limit was to encourage investment funds to stay in Canada to offset the flow out of the country created by government deficits, which have now disappeared. Could the minister explain why the government refuses to change this limitation?

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator indicated in his own question, the rate has been changed. It was at 25 per cent and now is at 30 per cent, in no small part due to the excellent work of the Standing Senate Committee on Banking, Trade and Commerce, which on a number of occasions urged those very changes. In response to various reports from the Senate Banking Committee those changes were indeed made. However, the government is now of the view that the correct balance has been achieved and there is no plan to change that 30 per cent limit.

**Senator Tkachuk:** Honourable senators, does the government believe that if it lifted the limit, Canadians would invest elsewhere?

**Senator Carstairs:** Honourable senators, one would presume that the reason for lifting the limit would be the expectation that Canadians might invest elsewhere. The reality is that the government has made the decision that the correct balance has now been achieved, and it has no intention of changing that position at the present time.

**Senator Tkachuk:** Honourable senators, considering the efforts of the Governor of the Bank of Canada, the Minister of Finance and the Prime Minister, who have been running around New York and other American cities talking to the media and others saying that Canada is a wonderful place to invest, that we are a wonderful country and that our dollar is undervalued, does the leader not think that the restrictions on RRSPs are a signal that Canadians, given the opportunity, would do the same as the rest of the world and invest elsewhere?

**Senator Carstairs:** Honourable senators, the very fact that the Canadians have the opportunity to invest up to 30 per cent of their funds in foreign content is a clear signal that the government has no objections to them investing elsewhere. However, the government feels that the balance has been struck and that this is what it should stick with, at least in the short term and for some time in the future, since it has made changes over the last two fiscal years.

[Translation]

## JUSTICE

### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—COSTS TO GOVERNMENT

**Hon. Jean-Robert Gauthier:** Honourable senators, you will remember that in 1996 the federal government delegated to certain provinces the administration of contraventions on federal land.

Ontario delegated that responsibility to Mississauga, where Pearson airport is located. There have been complaints to the effect that these contraventions were written only in English.

In a decision issued on March 23, 2001, the Federal Court of Canada ruled that the federal-provincial agreement did not comply with the Criminal Code and the Official Languages Act.

Mr. Justice Blais set a one-year time limit to review the agreements with the provinces and ensure that they comply with the Official Languages Act.

In a recent speech, the Honourable Stéphane Dion, the federal minister responsible for intergovernmental affairs and the minister mandated by the Prime Minister to coordinate the government's actions in the area of official languages said:

...before considering any new investment for official languages, the costs entailed in implementing the Blais decision had to be taken into account.

In other words, we had to pay for the mistake of the federal government, which had forgotten to warn the Province of Ontario that this delegation required the provincial administration to comply with the Official Languages Act in implementing the agreement. Some say that it will cost upwards of \$10 million to compensate the province.

Could the minister obtain for us a breakdown of the costs related to this delegation authorized by Parliament in 1996 with respect to the Contraventions Act?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question, and more particularly, because of the detailed nature of it, for providing a written copy to my office.

Unfortunately, we have not been able to obtain an answer for the honourable senator today, but hopefully we will have it within the next few days. As someone who comes from the province of Manitoba, where we have had rather large constitutional discussions and debates about fines in one language only, I know where the honourable senator is coming from and I hope to get him that information as quickly as possible.

[Translation]

**Senator Gauthier:** Honourable senators, there is only about six weeks left before Justice Blais' decision will nullify the act passed by Parliament.

Since there are five other provinces involved, namely Quebec, Manitoba, Prince Edward Island, Nova Scotia and New Brunswick, could the minister ask the Minister of Justice or a responsible authority to outline the federal government's position regarding the changes required pursuant to the ruling by Justice Blais, of the Federal Court?

[ Senator Gauthier ]

[English]

**Senator Carstairs:** Honourable senators, I can only repeat what I said a few minutes earlier. I do not have that information at my fingertips at present. I will seek to obtain that information and share it with the honourable senator as soon as possible.

## INDIAN AFFAIRS AND NORTHERN DEVELOPMENT

### COMMENTS ON ABORIGINAL YOUTH BY SECRETARY OF STATE

**Hon. Janis G. Johnson:** Honourable senators, the new Secretary of State for Indian Affairs and Northern Development, Stephen Owen, is reported in the papers and everywhere else comparing the young natives of Canada with Palestinian militants in Israel, stating that our reserves and native communities are tinder boxes that will lead to violence if progress is not made in treaty talks. Could the Leader of the Government in the Senate please tell us the government's position on his alarmist comments and whether his views will help to accelerate treaty negotiations in our country?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, like the Honourable Senator Johnson I read with interest what the minister was purported to have said in our newspapers. He has identified the problem that there are a certain number of very frustrated Aboriginal young people in this country. They are frustrated for a number of reasons. In many cases, they have not received adequate education and many of them are disheartened.

•(1450)

The Aboriginal people in this nation have a higher suicide rate than any other group of individuals in our country. That applies particularly to young men in our Aboriginal communities.

As to what Mr. Owen said exactly, we must wait until we learn more, I suspect, from Question Period in the other chamber. However, I do not hold the view that such positions will accelerate treaty negotiations. Nonetheless, it is important to take these issues into consideration.

**Senator Johnson:** Honourable senators, I agree with the Leader of the Government, and I wait with interest to hear what the minister will say in the days to come. Hopefully, Mr. Owen will appear before the Standing Senate Committee on Aboriginal Peoples during our study of urban Aboriginal youth as soon as possible to discuss his views. Perhaps at that time we will find some rationale for his inflammatory remarks.

**Senator Carstairs:** Honourable senators, Mr. Owen has served as an ombudsman in the Province of British Columbia and has taken part in negotiations on treaties. I recommend him to honourable senators as a witness. Mr. Owen's evidence would make an invaluable contribution to the study being undertaken by the Standing Senate Committee on Aboriginal Peoples.



## INTERNATIONAL TRADE

### RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Gerry St. Germain:** Honourable senators, my question is for the Leader of the Government in the Senate. In regard to recent meetings with the Americans, Mr. Pettigrew, the Minister for International Trade, told us that he demanded that the Americans bring to Ottawa, on February 4, a counterproposal to the negotiating table of the softwood lumber dispute.

Mr. Rock, the Minister of Industry, indicated that he laid the groundwork for future deals involving Canadian companies. He said that there is a plan in place, a good plan, a smart plan, but that the implementation is slower than we would like.

The Prime Minister does not seem to want to approach the President of the United States. Perhaps that is because the Prime Minister inferred during the last presidential election that he would have preferred the presidency to go to Al Gore rather than to George Bush.

Can the minister give us the current status of the softwood lumber issue? This is a most important issue to my home province of British Columbia and to the entire region of Western Canada, not to mention Ontario, Quebec and the Maritimes.

**Hon. Sharon Carstairs (Leader of the Government):** As the honourable senator has indicated, this is an issue of great importance to Canadians from coast to coast to coast, and particularly to British Columbians.

I know that on at least three occasions the Prime Minister has spoken to the President of the United States about softwood lumber. Rather than being reticent, the Prime Minister has been extraordinarily bold on this matter and has raised it in phone conversations between the two leaders as well as at in-person meetings.

The provinces have been very positive in putting forward proposals to the United States government. For the first time, the provinces have said that they are prepared to make changes and that they want a long-term settlement of this particular dispute.

Minister Pettigrew said last week in no uncertain terms that he expected a counterproposal from the United States, and that we, up to this point, have been making the proposals. United States companies and the United States government have been urging us to come forward with proposals. It is now time for the United States to act on this issue.

**Senator St. Germain:** Honourable senators, if the Prime Minister has spoken to the President of the United States on three occasions, something is obviously wrong with that communication. One would think that all Canadians are giving in to the Americans, and that there is something askew on this particular file if he is not responding.

Honourable senators, we have in excess of 20,000 unemployed people in the lumber industry in the province of British Columbia. As a result of the events of September 11, tourism has taken a beating. I blame no one for that other than the terrorists. Teachers and health care workers are being forced to accept wage decreases. These are all symptoms of the problems in the British Columbia economy.

Premier Gordon Campbell is doing an excellent job under extreme conditions. This is an urgent matter. The word "urgent" does not adequately describe the horror stories being told on the streets of British Columbia, stories about workers, their families, and the total impact on our economy. It appears that the politicians have been unable to solve the problem. Why are we not seeking some other method of proceeding?

The Leader of the Government in the Senate is correct in saying that the Americans were supposed to return with counterproposals. In mid-January, I spoke with the British Columbia Minister of Forests, the Honourable Michael de Jong, who told me that he was expecting a response from former Governor Racicot of Montana and that that response had not yet been received. There must be something wrong with the file. Perhaps we need somebody with more influence with the President of the United States to intervene since I do not think that the message has arrived at the White House. Would the minister suggest to her cabinet that we seek other help if the political side is failing?

**Senator Carstairs:** Honourable senators, with the greatest respect to Senator St. Germain, the Prime Minister has raised this issue on at least three occasions that I know of with the President of the United States. It is difficult to imagine that one can be at a higher communication level with the United States than that.

There is certainly a disagreement in the United States between producers of softwood lumber and the building community that has been expressed in the public venue south of the border.

I would suggest that there is a certain lack of communication between their representative, Mr. Racicot, and the industry. That is exactly why the Government of Canada is not only pursuing that avenue, but is also pursuing the WTO route. We want to ensure that we pursue every possible route to finding a resolution of this matter.

**Senator St. Germain:** Honourable senators, with all respect, the WTO route is a path to disaster for British Columbia. By the time we resolve this dispute through the WTO, the party will be over in British Columbia. As the Leader of the Government in the Senate is well aware, our economy is driven by our lumber industry. Tourism, our second largest industry, has taken such a beating that I do not think it can be part of the solution.

During the free trade negotiations, special people were brought in to effect that agreement. There are people out there who would be more effective than the ministers who are handling the file at the present time.

**Senator Carstairs:** Honourable senators, I happen to believe that the minister handling the file and the Prime Minister are doing an excellent job. However, I will certainly bring representations from the honourable senator to my cabinet colleagues and inform them he does not think they are doing a good job. If my colleague would give me names to put forward, I would be pleased to pass those on to the Prime Minister as well.

**Senator St. Germain:** Brian Mulroney is the right one.

## FISHERIES AND OCEANS

### ATLANTIC SALMON FISH FARM INDUSTRY— COMPETITION IN UNITED STATES WITH CHILEAN SALMON

**Hon. Brenda M. Robertson:** Honourable senators, I wish to return to the issue of farm salmon dumping by Chile which was raised in December. On December 10, in a response to a question from my colleague Senator Comeau respecting Chile dumping salmon on the U.S. market, the government had little information to pass on at that particular time. I believe the government deserves full marks for its attention to this situation that threatens the jobs of about 4,000 Atlantic Canadians, including more than 3,000 jobs in New Brunswick.

The minister informed the Senate in December that discussions were ongoing about the situation. Since then, press reports indicate that the government sent officials to Chile in an effort to resolve the dispute. When he was at ACOA, the new Minister of Fisheries and Oceans said that he was willing to consider anything.

• (1500)

Since those positive interventions, my first question is to the minister. When might ongoing discussions result in concrete measures to help the region's fish farmers survive this trade dispute with Chile?

The minister might answer my second question at the same time. The Atlantic fishery industry is looking for a support package or some form of insurance program, such as exists in agriculture, against future price devaluation. Could the minister confirm that the government is considering such a safety net? She might want to comment on my first question.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I must apologize to the honourable senator, as we certainly did have that dialogue in the Senate. I should have pursued that matter and have not. However, when I leave the chamber this afternoon, I will see if there is an update on what has been happening with respect to the negotiations with Chile.

As to a support package, I have heard nothing to date about that. I will inquire of the Minister of Fisheries to see if he is making any changes in that direction.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**The Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, it is my pleasure to table

three delayed answers. The first one is in response to a question raised in the Senate on December 13, 2001, by Senator Corbin regarding the facilities of the National Library; the second one is in response to a question raised in the Senate on October 24, 2001, by Senator Di Nino regarding equipping and training staff of the Canada Customs and Revenue Agency to deal with hazardous materials; and the third one is in response to a question raised in the Senate on December 5, 2001, by Senator Lawson, regarding the relief for heating expenses issued to deceased persons.

## HERITAGE

### NATIONAL LIBRARY—DESTRUCTION OF ARCHIVED MATERIAL DUE TO INADEQUATE FACILITIES

*(Response to question raised by Hon. Eymard G. Corbin on December 13, 2001)*

The Department of Canadian Heritage is working with Public Works and Government Services Canada, the National Library and the National Archives to resolve the accommodation pressures on the National Library in both the short-term and the long-term.

In the past five years, Treasury Board has approved almost \$3 million to restore damaged Library material and to take preventative measures. Further, beginning in the spring of 2001, parts of the Library's collections have been moved into ideal environmental conditions made available by the National Archives in their Gatineau Preservation Centre. In addition, Public Works and Government Services Canada will continue with repairs to currently-occupied facilities, such as installing air-conditioning for the Newspaper Collection in spring 2002.

To address the long-term accommodation needs of the National Library, options are being explored to construct joint facilities for the National Library and the National Archives for both collections storage and public programming purposes.

We are committed to giving Canadians continued access to our national collections and to preserving them for future generations while at the same time being fiscally responsible, recognizing the financial pressures facing the country at this time.

## CUSTOMS AND REVENUE AGENCY

### EQUIPPING AND TRAINING STAFF TO DEAL WITH HAZARDOUS MATERIALS

*(Response to question raised by Hon. Consiglio Di Nino on October 24, 2001)*

The Government recently injected \$100 million towards the implementation of the five-year Customs Action Plan.



In addition, the Canada Customs and Revenue Agency (CCRA) announced, in June 2001, a further investment of \$12 million in people and technology to counter threats to the security of Canadians.

Starting on September 11, 2001, in response to the crisis, the CCRA:

- increased its use of overtime and part-time staff,
- cancelled leave, and
- reassigned resources from less critical activities to all ports of entry.

On October 11, 2001, the Government announced additional funding of \$9 million for the CCRA, which will be used to hire approximately 130 Customs Officers to respond to new and emerging security threats.

At the same time, \$12 million was announced to buy new technology (such as X-Ray machines) to facilitate screening of goods, and leading-edge technology to better connect front-line officers to Customs intelligence data bases and those of other law enforcement agencies.

In October of 2001, the CCRA issued the following internal communications dealing with potential biological threats:

- October 18 — Interim Guidelines on Mail processing issued to all CCRA mail operations in the regions and at headquarters (HQ);
- October 24 — additional information on potential biological threats specifically addressed to Customs staff;
- October 25 — HQ Mail and Courier Services — Special Measures: centralized mail processing for all external mail destined for the National Capital.

In the Federal Budget of December 10, 2001, \$433M of the more than \$600M dedicated to border security and facilitation will be set aside for Customs to address:

- expansion and acceleration of the Customs Action Plan initiatives,
- procurement of state of the art detection technology,
- new secure internet-based technology to ease compliance for small business, and
- other security related issues, e.g., Customs Controlled Areas.

These steps demonstrate the Government's desire to support the efforts of its Customs personnel and provide for the security of all Canadians.

We are taking all necessary steps to mitigate any real or perceived threats.

## NATIONAL REVENUE

### AUDITOR GENERAL'S REPORT—ONE-TIME GRANT TO RECIPIENTS OF GST CREDIT TO OFFSET HEATING COSTS

*(Response to question raised by Hon. Edward M. Lawson on December 5, 2001)*

The Auditor General has observed that there were anomalies in the payment of Relief for Heating Expenses (RHE) and I quote: "These anomalies occurred because of the rules related to the GSTC." [Goods and Services Tax Credit]

Of the 8.6 million recipients there was a small percentage of clients who died during January 2001. These clients were entitled to the Goods and Services Tax credit payment and therefore also received the RHE. The Auditor General estimated this at 7,500 people.

When a payment is issued to a deceased person, the client's estate contacts the Canada Customs and Revenue Agency (CCRA) to advise of the client's date of death and the payment is reissued to the estate.

[English]

## ORDERS OF THE DAY

### YOUTH CRIMINAL JUSTICE BILL

#### MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill C-7, in respect of criminal justice for young persons and to amend and repeal other Acts, and acquainting the Senate that they have agreed to the amendment made by the Senate to this bill without further amendment.

### CANADA NATIONAL MARINE CONSERVATION AREAS BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, for the second reading of Bill C-10, respecting the national marine conservation areas of Canada.

**Hon. Gerald J. Comeau:** Honourable senators, Bill C-10 is to authorize the Minister of Canadian Heritage and the Parks Canada Agency to establish so-called national marine conservation areas in the Great Lakes and in tidal waters up to 200 miles. The objective is to set aside and zone representative marine areas for visitor enjoyment and to encourage understanding.

Essentially, the act will authorize the creation of 29 marine parks similar to terrestrial parks now in existence under the mandate of the Parks Canada Agency.

The policy to create national marine parks began in 1986 under a Progressive Conservative government. I am pleased to see that the current government supports the leadership and principles that we established at that time. Also, those who know me will know that my personal interest in marine issues is no passing fancy.

The title of the bill — Marine Conservation Areas — for those who have not actually read the contents, may mislead some to believe that the object of the bill is to protect fisheries and marine habitat environment. At the outset, it must be understood that this bill should not be about habitat and marine environmental protection. We have other government ministries mandated by federal statutes to accomplish these objectives. Adding another minister into the business of marine habitat and environment protection, as some of the provisions of this bill propose to do, would duplicate statutory mandates, blur responsibilities, and cause confusion, interference and conflict among departments. Worse, it will make it impossible to hold responsible ministries to account for failures.

Section 35(2) of the 1997 Oceans Act states that the Minister of Fisheries and Oceans will lead and coordinate the development and implementation of a national system of marine protected areas on behalf of the Government of Canada. Certain provisions of this current bill are, therefore, in direct conflict with the Oceans Act. This becomes apparent as one reads through the bill.

The authors seem unaware that the residents of our coastal communities are sensitive to the marine environment and the need to protect fragile ecosystems and habitat that nurture marine life. It is forgotten that they have been dependent on the resources of the sea for many centuries — that it is more than a way to earn a living; it is, in fact, in those areas a way of life.

Coastal communities have worked with and have pressured the federal Departments of Fisheries and Oceans and Environment to enact strong laws and regulations to protect our marine environment. In response to these concerns, the government added the Oceans Act, which provides the DFO with the authority and responsibility to designate marine areas for special protection.

As is often the case with initiatives such as Bill C-10, the devil is in the details. I should like, therefore, to point to specific clauses that illustrate the faults in the bill and how the bill will actually work against the principles of the Oceans Act.

In clauses 5 and 6 of the bill, there is no clearly defined process or criteria for stakeholders to consider in the designation or amendments of marine parks and reserves. There is no provision to oblige the minister to consult those most affected by the designation of marine parks. The only requirement is to

report the list of those who were consulted, the date, and a summary of their comments. Stakeholders could, therefore, suddenly discover that their areas of work, in their marine backyard, has been designated without their involvement and that the Minister of Heritage will eventually tell them what is to become of their place of work. This is a radical departure from the consensus-building principles of the Oceans Act, which solicit public and stakeholder support as a key assessment principle.

Under the bill's flawed process, marine parks could well be based on pressure by politically connected lobby groups close to the minister of the day. This is especially troubling if the minister should happen to be a leadership candidate.

Clause 7 provides that each House of Parliament has 30 sitting days to reject the designation. This hardly constitutes a proper control over the process. We should also be concerned that many legislators may not understand the implications of the bill or that they may not pay enough attention because it does not impact their constituencies directly.

How many parliamentarians truly understand the natural, social, cultural and economic complexities of the marine environment? The reality in Canada today is that the vast majority of backbench government members are from urban, non-coastal communities. Why would they bother to understand a bill that impacts far-off coastal communities, more so when they are under the mistaken impression that they are contributing to the protection of the marine environment?

No one can deny that there has been an increasing trend in recent years for the urban majority members to impose their values and beliefs on less politically connected coastal and rural communities in Canada. Such communities are seen as irrelevant. Even worse, some members who promote initiatives such as this often do not understand the bill. The chair of the Commons committee that studied the bill in the other place stated in reference to this bill that "it is vital to the conservation of our aquatic resources." If the chair of the key Commons committee that studied the bill does not understand the nature of the bill, do the residents of coastal communities not have cause to be alarmed?

Each proposed marine park should be viewed as unique and should be given the type of public scrutiny as outlined in the Oceans Act. Bill C-10 does not trust stakeholders to be fully involved.

Unlike the Oceans Act, which requires a management plan before the designation, clause 9 of this bill requires a management plan of the conservation areas to be established within five years of the designation. This should, in fact, be the other way around. A plan would alert the stakeholders to what is in store and reduce the uncertainty of waiting five years to find out what the Minister of Heritage has in store for the stakeholders.



Clause 9(3) involves the Heritage Minister directly in the business of marine ecosystem environment protection. Here and elsewhere, the bill strays into truly treacherous waters. As noted earlier, the business of marine environment protection is already well covered by other statutes, and the involvement of the Minister of Heritage will create duplication, interference, confusion, conflict and a dilution of accountability.

• (1510)

To illustrate the confusion, the preamble of the bill states that the government is committed to adopting the precautionary principle, and clause 9(3) states that the principle will be applied. A problem here is that the government is currently consulting on the proposed guiding principles to seek the views of Canadians on this subject. The government is not yet fully committed to the precautionary principle, and for good reasons.

The consultation will supposedly inform the government's thinking on whether the guiding principles on the precautionary approach are appropriate, would improve consistency, provide appropriate balance of flexibility and predictability and be adaptable. Canadians have until March 31, 2002, to submit their views on whether Canada should adopt the precautionary principle. The consulting documents state that:

...as references to the precautionary approach increase, the possibility for misuse and abuse has been highlighted. For example, there are concerns that it could be applied to perceived risks for which there is no scientific basis.

In fact, the precautionary principle is not even the principle adopted by the government, yet it becomes a part of this bill. It is even in the preamble.

Clause 9(3) states that this principle will be applied. This implies that either the government has secretly adopted the precautionary principle's guiding principles and that the consultative process is just a sham, or that the drafters of this bill were ignorant to the fact that the precautionary principle is still a work in progress.

Clause 9(4) provides for the Minister of Heritage to get involved with the activities covered by DFO and provides the Heritage Department with a veto over certain activities, such as fishing, aquaculture, marine navigation and marine safety. If such is the case, be prepared for jurisdictional turf battles.

This bill would create a parallel or dual fisheries management structure and may compromise the ability of the Minister of Fisheries and Oceans to effectively manage the marine resources and the marine habitat of Canada.

DFO management and enforcement provisions are already very complex and confusing as they currently exist, based on a multiplicity of divisions, including inland and maritime, fishing zones, marine protected areas, nursery and spawning zones, shipping lanes, oil and gas activities, aquaculture, provincial

jurisdictional interests, divisions by seasons, fleet sectors by gear types, vessel sizes and vessel types, fish species and Aboriginal and non-Aboriginal fisheries, to name but a few.

As if the Minister of Fisheries and Oceans did not have enough on the plate with dwindling enforcement resources, habitat degradation, judicial intervention and so on, this adds another new fish to fry. He will now have to deal with duplication and overlap in the management resources and the marine environment. The ministers of fisheries and the environment will now have to deal with a new ministry with legislated mandated management and enforcement authority in this already overcrowded marine environment. It will certainly make our job as parliamentarians more demanding and make it more difficult for Canadians to attach responsibility for failures to protect our valuable marine resources.

Resources are inadequate at present, and conflicting priorities and mandates will create added pressures on already underfunded staff resources.

Clause 11 calls for the establishment of management advisory committees to advise the minister on the management plan for each marine conservation area, but these advisers are appointed by the minister. The minister would consult with stakeholders on the composition, but can still appoint whoever the minister wants — another costly and useless committee on which to place political friends. Rather than ministerial appointees, such advisory committees should be made up of stakeholder representatives who have the trust and confidence of stakeholders.

Clause 13 is an absolute legislated prohibition of exploration and exploitation in all designated marine parks. This should be an area of concern to all our colleagues on both the East and West Coasts. I know Senator St. Germain will want to expand further on this.

I find this somewhat surprising. Should this kind of activity, similar to provisions for controlled fishing activities, not be examined in the overall management plan in a manner consistent with the Oceans Act? There may well be representative areas that Canadians would like to designate as marine parks, but where some activity could be permitted under controlled conditions. Both East Coast and West Coast residents, especially British Columbians, have just cause to be alarmed by this absolute prohibition. It breaches the spirit of good faith, consensus and agreement established by the Oceans Act to attain the overall objective of sustainable development. It will set back the goodwill and progress made possible under the Oceans Act.

Clause 14, similar to clause 9(3), again involves the Minister of Canadian Heritage in the business of marine environment protection. The Department of the Environment already has the authority and responsibility to deal with the disposal of any substance in the marine environment. Adding the Parks Canada Agency to this activity will create another new needless and costly bureaucracy.

Clause 15 provides for the authority to be given to parks superintendents to issue, amend, suspend and revoke permits and other authorizing instruments that are consistent with the management plan. What this means is that the management plan could allow for fishing licences to be issued by the parks superintendent to fish in marine parks. The authority provides no criteria or rationale for the issuance or revocation of licences.

Experience with the Fisheries Act has demonstrated that this power can be and has been subject to abuse. For those who doubt the possibility of abuse, you do not need to take my word for it. I invite you to speak with our fisherman. They know the history and would be pleased to provide honourable senators with the instances of abuse.

Clause 16 provides for sweeping and wide-ranging regulatory powers to the cabinet.

Clause 16(5) provides that this bill's regulations prevail over other regulations made under other relevant statutes, including the Fisheries Act, the Coastal Fisheries Protection Act, the Canadian Shipping Act, the Arctic Waters Pollution Prevention Act, the Navigational Waters Protection Act and the Aeronautics Act. These are all sobering prospects.

Areas designated under this bill may be foreclosed to fishermen, or they may seek special permission to carry out this work. What does special permission mean? This is not limited to mineral and fish resources. The Governor in Council has the right, by way of recommendation by the ministers of Transport and Canadian Heritage, to limit transportation in marine conservation areas as well.

Clause 18 provides for the creation of a brand new enforcement body, even though this government has cut DFO enforcement resources to the bone. How can this be rationalized to fishing communities that have implored the government to provide more enforcement resources, only to receive the response that the government could not afford it?

There is no name for this new Heritage police force, but I would like to call them the "Copp's cops." Whatever their name, clause 21(1) shows this is no cheap rent-a-cop operation. The officer will be provided with the powers to arrest, without warrant, any person whom the officer believes has committed, or is about to commit, an offence under this act.

Furthermore, clause 22(1), the warden, with a warrant or without a warrant if it is not practical to obtain one, will be provided with the authority to enter and search any place and open any package or receptacle at any time, day or night, and to seize anything that the warden believes is a thing prescribed by the warrant, if he has one.

This will surely add further confusion in marine parks. An example of this is the recent public controversy about arming park wardens and the decision of the Parks Canada Agency to hire RCMP officers to patrol national parks. Will the RCMP be

added to police the marine parks, thereby adding another new player to the waters?

It is no secret that empire building takes place and that departments aggressively protect their turf. The addition of another federal agency in federal waters will aggravate and create further confusion, duplication and conflict in an already overcrowded marine environment.

Ministers are already tripping over one another as it is and the addition of a Heritage bureaucracy will add to the *Alice-in-Wonderland* seascape. If nothing else, pity the poor stakeholders who have to navigate through this confusion and conflict. Perhaps we should ask that NAV CANADA be called in to direct the bloated marine traffic.

•(1520)

Heritage Canada, with this bill, intends to create marine conservation areas. The Department of the Environment already has marine wildlife reserves, and the Department of Fisheries and Oceans has already created marine protection areas under the Oceans Act.

What will happen when the Ministry of Indian Affairs and Northern Development pursues proposals respecting native fishing zones, as put forward last year by the negotiators in the lobster fishing dispute?

To add to the confusion, ACOA is now getting into the act by funding research into climate change and shoreline development on marine ecology. The research may indeed be worthwhile, but should such funding not originate from the lead fishery and oceans ministry?

Fishermen may have to lay off crew members and replace them with lawyers. Pity the poor marine animals and fish with these federal statutes all claiming authority over them. In fact, this bill is so confusing that it has to incorporate provisions for consultations between the Minister of Heritage and the other ministers. The same territory could conceivably be zoned in various ways and subject to various federal regulations.

The Ministry of Fisheries and Oceans has the expertise, experience and contacts with stakeholders to implement and administer the proposed marine parks. DFO already has a well-established consultation process and regularly meets with interested stakeholders on a vast range of issues. This is not to suggest that the process is perfect and that the Department of Fisheries and Oceans is a perfect body. Honourable senators have often heard me suggest changes that should be made to the DFO. However, even though it is not perfect, at least fishermen and stakeholders are familiar with DFO staff, and they do meet on an ongoing basis. As the old saying goes, it is sometimes better to deal with the devil you know than the devil you don't. Government seems ignorant of the fact that fishermen have to earn a living, and meeting with officials takes valuable time. Parks Canada will now add another new player to the scene, adding to the already busy, non-productive workload of fishermen.



Stakeholders have a right to be concerned with the proliferation of legislation and programs which give departments other than DFO a role in managing marine resources. Will the cost of this new Canadian Heritage administration be off-loaded on the fishing industry, or will the cost be absorbed by taxpayers? Is Canada so cash rich that it can afford to create new non-essential government bureaucracy? I suggest to you that the answer is no.

Our Fisheries Committee hears numerous requests from many coastal communities for urgent action in many areas. Its recent aquaculture study outlined the urgent need for research on the impact of fish farms on wild fish and habitat. Last year we heard testimony that Lake Winnipeg was approaching a state of deterioration that may affect ecosystem sustainability. In September, 2000, a joint task force on northern research established by the Natural Sciences and Engineering Research Council, NSERC, and the Social Sciences and Humanities Research Council, SSHRC, reported that Canada's research in the North was in a state of crisis. The report warned that, if action is not taken, Canada would not be able to meet its international science and research obligations, contribute to issues of global importance, or meet basic national obligations to monitor, manage and safeguard the northern environment or respond to emerging social trends.

It is our responsibility as parliamentarians to wisely use taxpayers' dollars, and direct those dollars to tackling urgent problems which need attention. The creation of another new layer of bureaucracy on the marine scene is not only a waste of ever-decreasing federal resources, but it may also be counterproductive. The government already has the legislative tools, personnel and expertise to accomplish our goal to protect marine heritage areas. Former Prime Minister the Right Honourable John Turner recently reported in *The Globe and Mail* that the federal Oceans Act, passed in 1997, provides both the mandate and the powers to establish marine protected areas. He pointed out that the Canadian Wildlife Act, passed more than 40 years ago, also permits protection of marine sites as national marine reserve areas. He also pointed out that the entire marine protected area, including cores and buffers, should be co-managed by local residents who, after all, have the greatest stake in conservation success.

The important point is that the establishment of representative marine areas can be done with current legislation and without the creation of a brand new bureaucracy, as proposed by this bill. A simple on-line amendment to subsection 35(1) of the Oceans Act can accomplish everything that Bill C-10 proposes. Consultative bodies are already in place, as are environment protection and enforcement. More important, there is public support to create more marine conservation areas. Furthermore, the Oceans Act has a built-in requirement for socio-economic impact studies to be completed before designation of marine conservation areas.

It is important that the Department of Canadian Heritage be involved in the establishment of these areas because of the expertise in the department in heritage matters. However, it is imperative that the DFO minister be the lead minister because of

the close and ongoing relationship with coastal communities, and the minister already has the legislative tools to do that.

When the bill goes to committee for assessment, the committee should invite stakeholders' groups to review the complex proposed provisions of this bill. I would suggest that the committee should travel to the East and West Coasts of Canada and hear from the people who will be affected by what is proposed in this bill. Many Canadians in those areas will be asking that the committee take the provisions of this bill seriously.

Coastal communities, fishermen, Aboriginals, shipping interests, mineral and other interested groups should be consulted on this and they should be visited. They have earned that right, and they deserve that right. To quote the previous Minister of Fisheries, Herb Dhaliwal, in a speech to the Global Conference on Oceans and Coasts at Rio +10, given in Paris on December 3, 2001:

Our Ocean Act gave us the tools we needed to understand, protect and enhance our oceans and their resources for a long time. It has given a wide range of Canadians the opportunity to get involved in the decision-making process of our Oceans, and play a positive and meaningful role in Canada's oceans heritage.

I could not have said it any better.

**Hon. Gerry St. Germain:** Senator Comeau raised a question regarding clause 13, which is terrifying to British Columbians. There is no question that prohibition of any exploration for any resources would have a tremendous impact on the future of British Columbia. Today Hibernia is operating successfully. I believe that Senator Watt and others would express this same concern as it relates to the Arctic.

The most disturbing aspect of the honourable senator's speech, and perhaps he can comment further on this, are his comments as they relate to the danger of duplication in its greatest form. The Department of Fisheries and Oceans, and the Department of the Environment are already involved, and now we want to involve the minister responsible for the Department of Canadian Heritage. This will create the danger of ministers trying to establish their turf. I have experienced that, so I know how it works. That is worrisome because bigger is better in the minds of certain people.

How does one overcome the urban person's lack of understanding and knowledge of what is required in these rural coastal communities? I do not want to be partisan, but Bill C-68 impacted the rural communities negatively and the rural communities voted aggressively against that measure. We ended up with a program that was supposed to cost \$80 million, but cost \$600 million. What we have, honourable senators, is a situation where the majority is going to impose its will unfairly on the minority. How can we convince the government to get travel into this program and achieve real understanding? Premier Campbell of my province of British Columbia is concerned about this. Would the honourable senator elaborate on that, please?

● (1530)

**Senator Comeau:** First, I should like to refer to the Oceans Act, which I supported. It was a proposal from the other side. I think Senator Robichaud will remember. I was one of the great boosters of the Oceans Act because of the great promise it held for our coastal communities. Bill C-10, in my view, has not been given the great opportunities that we get from the Oceans Act. The Oceans Act created a balance in that it provided for consultation with coastal communities and brought them into the process. Senator St. Germain referred to the fact that a large number of urban people do not understand what is happening in the coastal communities, and why should they? Why would someone in an inland city care all that much for a far-away coastal community in Northern B.C. or off Newfoundland? The Oceans Act gave a chance for those coastal communities to be involved in the initial stages as the plan was being made. This bill takes another approach. It establishes an area first and then creates a plan, which is completely contrary to what the Oceans Act provided.

Clause 13, to which the honourable senator refers, is an absolute prohibition of any kind of exploration in the area of undersea mineral rights and is contrary to what the Oceans Act wanted to do. It will create a system whereby people will resist trying to protect those areas because they will not want a complete prohibition.

Under the Oceans Act, the provisions provided for certain controlled activities in those areas but at the same time protected those areas for environmental purposes, for conservation purposes and, I suggest, for heritage purposes. Bill C-10 says absolutely no — in perpetuity. It runs contrary to what we have been suggesting that the government should do when dealing with coastal communities, which is to consult and then act, rather than act and then consult.

I hope that Senator St. Germain will expand on this issue in days to come.

**Senator St. Germain:** The Honourable Senator Comeau has given an excellent speech and I hope the government is listening. This is not partisan behaviour. These remarks go to the heart and the core of economic viability and development in our country. Senator Comeau, who spent the majority of his time in the House of Commons and in this place studying the oceans and the impacts of various pieces of legislation, has a great amount of knowledge in this area, as there is a large amount of knowledge on both sides. However, we need to share our knowledge and do what is right for these urban coastal communities.

**The Hon. the Speaker:** It was moved by the Honourable Senator Banks, seconded by the Honourable Senator Ferretti Barth, that Bill C-10 be read a second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.

[Translation]

## COMPETITION ACT COMPETITION TRIBUNAL ACT

BILL TO AMEND—SECOND READING

**Hon. Marie-P. Poulin** moved that Bill C-23, to amend the Competition Act and the Competition Tribunal Act, be read the second time.

She said: Honourable senators, as we debate the amendments to the Competition Act and the Competition Tribunal Act before the Senate today, it is important that we take into account the ensuing benefits to all Canadians. Competition is essential to an effective market economy. It encourages businesses to work more efficiently and allows Canadians to benefit from competitive pricing, a choice of products, and improved services.

As consumers, each one of us benefits from effective competition legislation. Bill C-23 includes amendments to the Competition Act. It has six objectives. First, to allow Canada to obtain evidence from other countries with respect to civil cases involving competition in Canada; second, to prohibit deceptive prize notices; third, to broaden the scope under which the tribunal may issue temporary orders; fourth, to improve procedures with respect to matters to be presented before the Competition Tribunal and to allow it to award costs; fifth, to allow individuals and corporations to apply directly to the tribunal for an order against anti-competitive behaviour; and, sixth, to deal with anti-competitive behaviour in the airline industry.

[English]

Honourable senators, let me deal first with the issue of evidence gathering and international cooperation among competition authorities. Canadian competition authorities can currently ask their counterparts in more than 30 countries, pursuant to the Mutual Legal Assistance in Criminal Matters Act, to collect evidence related to anti-competitive conduct. The conduct must fall under the provisions of the Competition Act that deal with criminal offences. No requests may be made to gather evidence concerning conduct that falls under the act's provisions dealing with non-criminal matters. The subject matter under such provisions includes review of major merger cases, abuse of dominant position, and other types of potentially anti-competitive conduct such as market restriction or tied selling.



Yes, honourable senators, Bill C-23 provides for the possibility of making requests to obtain evidence through agreements. These amendments to the Competition Act and the Competition Tribunal Act are essential because in today's increasingly global economy the ability to obtain evidence in other countries is crucial to administering and enforcing domestic competition laws. Naturally, if Canada asks foreign states to collect evidence on Canada's behalf, it will also agree to collect evidence on anti-competitive conduct for other countries.

• 1540 •

Moreover, the amendments set out basic requirements that must be met before entering into an agreement with another country. They establish procedures for approving and handling requests for evidence from other countries. For example, before an agreement is entered into, the Minister of Justice must be satisfied that competition laws of the foreign state are substantially similar to those of Canada, that confidentiality of information is preserved and that the information is only used for the purpose for which it was requested.

The Minister of Justice must approve all requests for evidence. Additionally, the process provided for dealing with such requests will be subject to judicial authorization. To protect and maintain competition at home, Canada needs the ability to ask other countries to collect evidence for cases involving civil competition matters. Bill C-23 provides an important and essential tool for facilitating this requirement. For this reason alone, I would urge speedy passage of Bill C-23.

[Translation]

There are, however, other reasons to support this bill, honourable senators. For example, it contains amendments specifically relating to deceptive prize notices, which mislead people into thinking that they have won a prize but demand a payment in order to receive it, which invariably exceeds the value of the prize.

There is, however, no likelihood of these changes affecting companies presenting legitimate contests. An offence is not committed if the following conditions are met: the sender makes adequate and fair disclosure of the number and approximate value of the prizes or benefits; the areas to which the prizes have been allocated; and any facts that "materially affect" the chances of winning; the prize or benefit is distributed without unreasonable delay; and participants are selected or the prizes are distributed randomly or on the basis of participants' skill.

In other words, the amendments to Bill C-23 help consumers to make informed decisions. These amendments deserve our support. They will help put an end to the rackets offering prizes in order to snare victims and will enable Canada to adopt a position similar to that of the United States and the United Kingdom.

[English]

Honourable senators, Bill C-23 also contains amendments that will broaden the scope under which the Competition Tribunal may issue interim orders. Except under certain circumstances, such as merger reviews, the tribunal cannot presently issue an interim order until the commissioner has applied to the tribunal under Part VIII of the Competition Act.

Collecting all the necessary evidence required for such an application can take time. For this reason, it may become necessary to implement procedures that may help to prevent irreparable harm before an investigation can be completed.

The proposed amendments, therefore, include provisions that would allow the tribunal to issue interim orders upon findings that if such an order were not issued, there would be injury to competition or a competitor likely would be eliminated or a person likely would suffer significant loss of market share, revenue or other harm that could not be later remedied by the tribunal.

[Translation]

Honourable senators, Bill C-23 also contains certain amendments to help simplify certain procedures of the Competition Tribunal. For example, certain clauses would enable it to grant summary judgment while others could award costs — an effective way of discouraging strategic litigation.

[English]

Honourable senators, there was an important amendment added during the review of Bill C-23 by the Standing Committee on Industry, Science and Technology in the other place. This amendment would allow individuals and businesses to apply directly to the Competition Tribunal rather than go through the Commissioner of Competition on matters involving refusal to deal, market restriction, tied selling and exclusive dealing.

At present, if the Competition Bureau decides not to proceed on a matter, the complainant has no other recourse under the Competition Act. This amendment provides an alternative that can complement the bureau's enforcement of procedures under the Competition Act.

Moreover, amendments respecting private access to the tribunal were originally proposed in a discussion paper prepared by the Competition Bureau in response to private members' bills aimed at the Competition Act tabled in the other place.

Consultations were undertaken by the Public Policy Forum, a non-partisan, non-profit organization. The consultations revealed diverse views among stakeholders on this proposal but found that a balanced solution might be possible if appropriate safeguards were added to protect against strategic litigation. The Standing Committee on Industry, Science and Technology heard witnesses on this issue and decided that private access should be included in Bill C-23.

Honourable senators, permit me to summarize the specific safeguards added to Bill C-23. First, the tribunal can act as a gatekeeper through its power to grant leave to apply for an order. Second, cases cannot proceed if the Commissioner of Competition is on inquiry or has settled the matter. Third, no damages may be sought, but the tribunal has the discretion to award costs.

In brief, the addition of private access to the Competition Tribunal takes a balanced approach. It will enhance competition law enforcement in Canada. It will contribute to building a more efficient and competitive marketplace. As a result, it will benefit Canadian consumers and businesses alike.

[Translation]

Finally, honourable senators, this bill includes new provisions to address specific important issues facing Canada's airline industry. First, the Competition Tribunal will have the power to extend a temporary order made by the Commissioner of Competition. This will give the commissioner the time to receive and to examine the information required to determine whether or not he will apply to the tribunal under the legislation's abuse of dominant position provisions (section 79). These amendments will also allow the tribunal to impose an administrative monetary penalty of up to \$15 million with respect to an air carrier which has abused its dominant position in a relevant market. I am not suggesting that the fact of having a carrier with such a large share of the national market is because of anticompetitive conduct. However, we must recognize that Canada has a highly concentrated airline industry right now. The new monetary penalties would therefore provide a powerful incentive to ensure compliance with the Competition Act.

[English]

Honourable senators, I close my remarks by saying that the amendments in Bill C-23, to amend the Competition Act and the Competition Tribunal Act, will collectively lead to a Canadian marketplace that functions more effectively for consumers and businesses alike. This is why the Senate should act with dispatch and pass this bill.

[Translation]

**Hon. Donald H. Oliver:** Honourable senators, I rise today to speak to Bill C-23, to amend the Competition Act and the Competition Tribunal Act.

Before speaking to the bill, I wish to make a few general remarks about the Competition Act. The purpose of this legislation is to maintain and encourage competition in Canada. It therefore plays a central role in the Canadian economy. This role is more important because the economy is becoming globalized, the number of mergers is increasing, and many sectors of activity are converging.

[ Senator Poulin ]

[English]

The Competition Act sets out the parameters between acceptable and unacceptable business behaviour. The Competition Bureau's enforcement of the act must be flexible and must take account of the business environment. Today, dwindling numbers of companies are operating in various sectors of the Canadian economy and there are near monopoly situations in some sectors, such as the airlines. It is important for the bureau to look at all rules that can have an adverse impact on competition. Restrictions on foreign ownership and foreign investment in some sectors of the Canadian economy, for example, can be significant barriers to market entry and impediments to effective competition. Government creates these barriers. In most situations, competition policy does not address such government created barriers. However, I believe it is incumbent upon the Competition Bureau to draw the government's attention to the impact of these barriers on competition and work towards their reduction and eventual elimination where competition is adversely affected.

Honourable senators, my remarks today will focus on three issues: private access to the Competition Tribunal, already addressed by the honourable senator, the need for regular parliamentary reviews of the Competition Act, and, finally, the interface between the Competition Bureau and the Canadian Radio Television and Telecommunications Commission, CRTC.

Bill C-23 introduces a right of private access to the Competition Tribunal. Private parties who have been directly affected by certain anti-competitive practices would be able to initiate an action under the Competition Act. This amendment, as you have already heard, was introduced at committee stage in the House of Commons.

Let me begin by stating that I fully support a right of private access to the Competition Tribunal. I can find no valid public policy reason why access to the tribunal should be limited to the commissioner of competition, as is presently the case.

[Translation]

Discussion of the right to private access in connection with practices leading to an action under the Competition Act has been going on for years. This is a controversial amendment. Some feel that this is a long overdue measure, while others feel that allowing businesses to bring private action before the Tribunal would have terrible effects.

[English]

The arguments for and against private access are well known. Among other things, proponents argue private access will deter firms from engaging in anti-competitive practices, free up Competition Bureau resources and allow the bureau to focus on other anti-competitive conduct, complement public enforcement by the Commissioner of Competition, and, finally, produce judicial decisions to guide the business community on its responsibilities under competition law.



Opponents, on the other hand, maintain that private access will encourage costly strategic litigation, place a litigation chill on certain pro-competitive business activity, such as vertical contractual arrangements and altering distribution arrangements, and result in the government declining to initiate cases it might have previously pursued on the belief that the private sector should do so and lead Canada down the road to an American-style litigation system.

As a proponent of private access, I would add two equally important and compelling reasons for supporting the right of private complaints to gain direct access to the Competition Tribunal.

[Translation]

First, the Commissioner of Competition is not always right not to initiate a case. He may occasionally misjudge. Under the present legislation, the injured party has no recourse. Private access provides the plaintiff with an alternative solution when the commissioner decides not to intervene.

The head of the Australian Competition and Consumer Commission confirms this view of how competition law operates in Australia.

[English]

Speaking before the House of Commons Standing Committee on Industry, Science and Technology last November, Professor Alan Fels noted that there were cases in Australia where his commission failed to take action when it should have and had been proven wrong after private claimants brought a successful case. He also noted that cases started by private clients would have produced important legal precedents.

Second, private access will increase accountability of the Competition Bureau. A respected authority on Canadian competition law, Professor Michael Trebilcock, recently made the point that there was little accountability in relation to the commissioner's decision not to bring cases forward. Private access, then, becomes an important check on the commissioner's power and discretion.

In discussing the benefits of private access under Australian competition law, the chairman of the Australian Competition and Consumer Commission stated:

...having a private right of action makes the law far more effective and achieves much better compliance, and ultimately achieves better results for consumers and for many business customers who may otherwise be on the receiving end of anti-competitive behaviour. That factor is especially important at times when there are budgetary cutbacks.

Many agree that the Commissioner of Competition under-enforces the Competition Act. Clearly, the competitive environment in Canada would benefit from more scrutiny of anti-competitive behaviour.

As for the issues raised by opponents of private access, the most persuasive is the concern about so-called strategic litigation. However, I believe that these concerns can be and have been addressed by a number of features in the bill. Moreover, the arguments about private access leading to American-style litigation are specious. There are just too many significant differences between the Canadian legal system and the competition law system and the United States antitrust system for this argument to hold water.

[Translation]

Now I should like to address the various components of the private access system as set out in Bill C-23. My analysis is based on the conviction that private access should be an effective means of improving competition, dissuading businesses from engaging in anti-competitive practices and redressing the wrongs caused by anti-competitive activities, all characteristics of proper competition law.

According to Bill C-23, a private party may file a complaint before the Competition Tribunal only in connection with four types of anti-competitive behaviour.

•(1600)

These are: refusal to deal, exclusive dealing, tied selling and market restriction. However, private access does not apply to abuse of dominant position.

[English]

Private complainants would not have automatic access to the tribunal. They must apply to the tribunal for leave to bring a case. The tribunal will not grant leave to bring a private action if the Commissioner of Competition has started an inquiry already or has settled the matter, and in order to obtain leave, the tribunal must believe that the complainant's business was directly and substantially affected by the relevant anti-competitive practice in sections 75 and 77. Private complainants cannot be awarded damages. Finally, the tribunal has discretion to award costs against a private complainant.

Many of these provisions have been included to address concerns about so-called strategic litigation where private parties use litigation and the courts for tactical business purposes. I understand the need to address these concerns and the possible impact of litigation chill, but I believe that some of the conditions set out in Bill C-23 are too restrictive. They will emasculate private access. In the end, the regime is likely to be ineffective.

Consider the requirement, for example, of a complainant having to obtain leave of the tribunal in order to bring forward a case. This is an unnecessary, time consuming and costly hurdle that will prevent meritorious cases from proceeding. The Competition Bureau expects that private access will be used primarily by small- and medium-sized businesses to deal with local or limited private matters. If this is the case, the requirement to obtain leave may just be too onerous and inhibit the use of private access by the very businesses it was intended to benefit.

Also, I can think of no good public policy reason to prevent a private complainant from being awarded damages. The possibility of a damage award would be an important deterrent to anti-competitive behaviour. Without a damage provision, Bill C-23 falls short of the goal of fostering the competitive process.

Opponents of private access argue that damage awards will bring us too close to the American antitrust system where private complainants can be awarded triple damages. However, I am not suggesting that triple damages are appropriate in private access cases, only that the Competition Tribunal should have the ability and the authority to award ordinary damages where anti-competitive behaviour has been injurious to the business of the private complainant. In my view, this is reasonable, fair and appropriate.

Under Australian competition law, damage awards are allowed. This has not created a wave of strategic litigation on the part of private complainants, and it has not been an issue of great concern to the business community. Indeed, the Chairman of the Australian Competition and Consumer Commission recently noted that even though private complainants can obtain damages, their main emphasis has been on stopping anti-competitive behaviour rather than on monetary compensation.

[Translation]

I firmly believe that Bill C-23 also includes safeguards against strategic litigations, in the form of costs and the application restricted to sections 75 and 77 of the Competition Act. The absence of conditional fees is another powerful deterrent.

The fact that complainants must first get leave, and the fact that no damages are awarded are useless restrictions which, in my opinion, will make private access ineffective and contribute to a less than full application of our competition law.

I now want to talk about the need for regular parliamentary reviews of the Competition Act. The Competition Act is an important legal framework for the economy, just like the Canada Business Corporations Act. It is an essential ingredient of competition. This legislation is a tool to increase Canada's economic prosperity. We must have an excellent competition law, which must be enforced in an excellent manner.

Competition law applies in a context of globalization and rapid transformation of the economy. These conditions require a modern competition law that works optimally.

[English]

Clearly, then, it is important for the Competition Act to be examined regularly and updated to reflect domestic and international legal and business developments. Unfortunately, there is nothing in the act to ensure that regular examination takes place. Significant amendments to Canada's competition laws were made in the mid-1980s. There were also amendments

[ Senator Oliver ]

in 1999 to revamp misleading advertising provisions and in 2000 to deal with the airline industry. The House of Commons Standing Committee on Industry, Science and Technology has done and continues to do excellent work in studying the Competition Act, but there needs to be a continuous and timely process for examining and amending the act.

[Translation]

I am convinced that Parliament should review the Competition Act on a regular basis. This means that the government must commit to having this legal framework for the economy remain up to date.

It is also very important for Parliament to be able to examine the effectiveness of the new provisions relating to privacy, because they represent a major change that has not garnered unanimous support.

[English]

Periodic reviews of the Competition Act by Parliament would accomplish four objectives. First, the act would keep abreast of new developments in legal and business practice. Second, periodic reviews would bring the act into a wider audience and heighten awareness of the act among the public. Third, such reviews would allow Parliament to play an important continuing and, in my view, long overdue role in the development of competition law and policy. Fourth, periodic reviews would increase accountability of the Competition Bureau and the Commissioner of Competition. Parliamentarians would develop the needed expertise in competition policy issues that would enable them to more effectively scrutinize the Competition Act and the work of the bureau. I therefore intend to seek an amendment to Bill C-23 to ensure that the Competition Act is periodically reviewed by Parliament.

Finally, honourable senators, I should like to make a few closing remarks about what I think is important in terms of the interface between the Competition Bureau and the Canadian Radio-television and Telecommunications Commission. The Canadian communications industry is in the throes of change. International competition, new technologies, mergers, takeovers and media convergence are blurring the boundaries between specific communications sectors. Mergers and convergence raise questions about corporate concentration and competition in the communications industry. These developments also raise issues around the roles and interplay of the Competition Bureau and the CRTC in addressing competition in the communications sector. The Competition Act is a broadly framed statute applying to all businesses. The CRTC is a sectoral regulator with a different mandate from that of the Competition Bureau.

Under section 125 of the Competition Act, the Commissioner of Competition can make representations in relation to competition before any federal board, commission or other tribunal. The Competition Bureau has made a number of representations before the CRTC.



In 1999, the Competition Bureau and the CRTC outlined their respective roles and authority in relation to the broadcasting and telecommunications sectors. Mergers, for example, come under the jurisdiction of both agencies. They also define areas where each has exclusive jurisdiction. Clearly, there are legal and institutional differences between the Competition Bureau and the CRTC. The CRTC has to balance a wide range of policies and interests. The Competition Bureau is focused on maintaining and encouraging competition.

•(1610)

Competition rules and remedies have an important role to play in the communications sector. In a climate of convergence, commercial distinctions are being eroded. The rationale for oversight by two agencies comes into question. It may be time to consider replacing industry-specific regulation with general competition law or combining competition rules with the CRTC's sectoral experience. These issues, I submit, are worth studying.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Poulin, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.

[Translation]

## POINT OF ORDER

### SPEAKER'S RULING

**The Hon. the Speaker:** Honourable senators, on Tuesday, December 11, 2001, the Leader of the Opposition, Senator Lynch-Staunton, raised a point of order to object to certain procedures that had been followed in relation to Bill C-44, which amended the Aeronautics Act. The substance of the senator's complaint had to do with the fact that the Department of Transport of Canada seemed to anticipate a decision of the Senate with respect to the second reading of this bill, and did not prepare its documents adequately.

[English]

In making his case, Senator Lynch-Staunton noted that the briefing material on the bill had not been written to reflect the

fact that it was to be used by a committee of the Senate rather than of the House of Commons. Even the copy of the bill distributed to committee members was not the usual "as-passed" version but the first reading copy presented to the House of Commons, together with a page appended to it indicating the amendments that had been made to the bill in that House before final passage. Senator Lynch-Staunton was also disturbed by the fact that the Library of Parliament had prepared for the benefit of committee members questions that could be posed to witnesses in advance of the second reading of the bill in the Senate. All this, according to Senator Lynch-Staunton, seemed symptomatic of a malaise that has slowly crept into this place and, if allowed to continue unchecked, will push us even further down that slippery slope to irrelevance.

The Leader of the Government in the Senate, Senator Carstairs, expressed sympathy for some of Senator Lynch-Staunton's complaints. Senator Carstairs shared Senator Lynch-Staunton's annoyance with the fact that the department's briefing material had not been properly prepared for Senate use. Nevertheless, Senator Carstairs took note of the fact that the bill is an important piece of legislation that had been hived off from Bill C-41 to deal with the urgent matter of air security. Given this importance, Senator Carstairs did not find it too surprising that the department would have sought to anticipate events to the best of their ability and would have prepared briefing materials for distribution to all members of the committee as expeditiously as possible following second reading. For their part, as Senator Carstairs observed, senators would have been upset had they not received this documentation in time.

[Translation]

Senator Bacon, the Chair of the Committee on Transport and Communications, then spoke to explain how the steering committee had agreed to a standing committee meeting Tuesday morning in order to hear the testimony of a list of witnesses in connection with Bill C-44, in anticipation of its adoption at second reading by the Senate.

[English]

Also sharing the misgivings of Senator Lynch-Staunton, Senator Cools proposed that a committee, or perhaps the Senate itself, should study the issue of the relationship of the Senate, the House of Commons and the executive, given the nature of the events surrounding consideration of Bill C-44 and other instances of a similar kind that have occurred in recent years.

[Translation]

I wish to thank honourable senators for their interventions. I have investigated the matter and I think that I have a proper understanding of what happened. I am prepared to make my ruling now.

[English]

Let me begin by stating at the outset that I do not believe there is a point of order in this particular case. The legitimate complaint that Senator Lynch-Staunton raised has to do with a certain carelessness, if I may put it that way, on the part of the department with respect to preparation of briefing material. Even Senator Carstairs recognized that the documentation had not been suitably prepared for the use of the Senate. While the specific instance complained of may not seem important on its own, it is because it is part of a growing pattern that it has now become disturbing. Nonetheless, it is not properly a point of order over which I have any authority. The offended committee can raise a complaint with departmental officials when they are present before the committee. In this particular instance, however, I heard nothing to suggest that members of the Transport Committee raised this problem with the officials when reviewing Bill C-44.

As to the matter of the printed version of the bill that was used by the committee, an "as-passed" version should have been distributed. I have been informed that an "as-passed" printing of Bill C-44 was available as of Friday, December 7, 2001. However, I am uncertain who has the responsibility of distributing the copy of the bill to the members of the committee. It is unclear to me why this task should be the responsibility of the officials of the department rather than our own staff. I suspect that the rush with which the bill was considered by the Standing Senate Committee on Transport and Communications was a relevant factor.

With respect to the other issues mentioned by Senator Lynch-Staunton — the preparation of questions by the Library of Parliament and the scheduling of witnesses for a committee meeting even before the Senate had approved Bill C-44 — these are matters that are determined by the committee itself. They do not normally involve the Speaker and, so far as I can determine, there is no basis for my intervention. As I understand from what Senator Bacon stated, the steering committee approved these arrangements as a way to expedite the consideration of a bill it deemed to be urgent.

Even Senator Lynch-Staunton, in recounting the chronology of events surrounding the consideration of this bill, acknowledged that the notice of the meeting and the distribution of the documents in the form complained of occurred only after second reading. Based on my experience in the Senate, this is not really an uncommon practice, especially when the legislation is recognized to be urgent. In the end, it is the membership of this chamber that sets the pace, not the Speaker.

I hope that this explanation in some way answers the understandable complaint raised by the Leader of the Opposition.

[The Hon. the Speaker]

## PRIVACY RIGHTS CHARTER BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Finestone, P.C., seconded by the Honourable Senator Rompkey, P.C., for the second reading of Bill S-21, to guarantee the human right to privacy.

**The Hon. the Speaker:** Is this item to stand on the Order Paper, honourable senators?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, no one informed me of their intention to speak on this item under consideration, which has been on the Order Paper for fifteen days. Under the usual practices, this item would simply be struck from the Order Paper.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** I wonder, honourable senators, if the situation is not more complicated. We have, on the Order Paper, the thirteenth report of the Senate Committee on Social Affairs, Science and Technology on the subject matter of this bill.

My question is as follows: If the bill is not on the Order Paper, how are we supposed to consider the report on the bill? Could the Speaker or an honourable senator please explain this complicating factor to me?

**Senator Robichaud:** Honourable senators, if I understand this properly, the Senate committee report dealt with the subject matter of the bill, and not with the bill itself. These are two separate elements. The consideration of the report is not directly related to the bill. It can be considered on its own value, without being linked to the bill.

[English]

**Senator Kinsella:** Honourable senators, the difficulty I see is that if no one on the government side speaks to Senator Finestone's bill, then the bill is gone. The thirteenth report, which is on our Order Paper and which will be called subsequently, is a report that deals with the subject matter — and here I agree with the honourable senator — of Bill S-21 and not Bill S-21 itself. Will we be obviated from considering the report of a committee that has addressed the subject matter of a bill that is no longer in existence?

**The Hon. the Speaker:** Honourable senators, if a step is not taken to further this bill today, the 15-day expiry period under our rule means that it drops off the Order Paper. If I understand the rules correctly, that does not mean that the matter cannot be brought back by a senator. In any event, it is up to this chamber. If honourable senators wish it to stay on the Order Paper, senators have the power, through the unanimous consent of all present, to extend the time.



Although I am not sure, Senator Robichaud may have provided an adequate answer in that the report to be considered subsequently deals with the subject matter of the bill; and, accordingly, the fact that the bill is not on the Order Paper does not take away from that report.

I am, perhaps, not helping. However, I thought I should attempt to invite honourable senators at least to leave this item on the Order Paper by taking the appropriate step to request consent that it remain on the Order Paper, or that we proceed. If we proceed, it will drop off the Order Paper.

**Senator Kinsella:** Honourable senators, we have here a question of the orderly procedure in this house. Perhaps I should raise this matter as a point of order. The question is: Will this item, which deals with the subject matter of a bill, drop off the Order Paper should the fifteenth day pass with no movement taken? My understanding is that the bill will cease to exist. If it ceases to exist, how can we have a debate on a report of the subject matter of a bill that does not exist? Perhaps His Honour could take this point of order under consideration for fear that this situation might present itself again. Perhaps the matter could be stood in the Speaker's name until he has had an opportunity to examine it.

**Hon. Anne C. Cools:** Honourable senators, what is happening here is dramatic and somewhat unusual. It seems to me that if a senator who is no longer with us and who recently retired would have anticipated this moment, the proper thing to have done would have been to have motivated a senator to be in position either to continue the debate or to carry the debate forward. That has not happened. One has to accept the will here, which is that no one seems interested in continuing the debate.

What Senator Kinsella seems to be suggesting is that His Honour should somehow move the adjournment himself and show some interest in this particular measure. That is very much in order, except that His Honour will have to leave the Chair and go to his seat to move such a motion to adjourn. It would be quite out of order for His Honour to sit in the Chair and to follow the suggestion that Senator Kinsella has made.

I think all senators are aware that the Speaker of the Senate is quite a different creature from the Speaker of the House of Commons. The Speaker of the Senate is free to vote in debate and is free to participate and to speak in debate. However, those ordinary features of the Speaker's role when he functions as an ordinary senator are supposed to be conducted from his other chair, from his own seat in the Senate, and not from the Chair of the entire Senate.

Perhaps His Honour should be allowed to do that. Perhaps that is His Honour's wish, if he accepts Senator Kinsella's suggestion.

**The Hon. the Speaker:** Do any other honourable senators wish to comment on Senator Kinsella's point of order?

**Hon. Herbert O. Sparrow:** I wish to adjourn the debate.

**The Hon. the Speaker:** Senator Sparrow, I think this item requires more than adjournment. Adjourning debate would simply leave us where we are now — 15 days with no action on the matter and the bill would drop off the Order Paper. Does the Honourable Senator Sparrow wish to speak to the bill?

**Senator Sparrow:** No, I should like to adjourn debate for another 15 days.

**The Hon. the Speaker:** Is the honourable senator asking for leave to have the matter stand on the Order Paper?

**Senator Cools:** No, Your Honour.

**The Hon. the Speaker:** I am asking Senator Sparrow.

**Senator Sparrow:** No.

**The Hon. the Speaker:** Does the Honourable Senator Cools wish to intervene again?

**Senator Cools:** It seems to me that the entire problem would have been resolved if a senator had risen and indicated that he or she was interested in advancing the debate on this bill. It was my clear understanding that Senator Sparrow did just that. Senator Sparrow has just indicated his interest in taking the adjournment so that he may speak to Bill S-21. As such, all procedural concerns would be properly satisfied.

**Senator Kinsella:** Honourable senators, with the unanimous consent of the house, I would be prepared to withdraw my point of order so that we might proceed as Senator Sparrow is suggesting with a motion to adjourn the debate.

**The Hon. the Speaker:** Is there unanimous consent, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Once again I invite Senator Sparrow to take the floor.

**Senator Robichaud:** Just say a few words.

• (1630)

**Senator Sparrow:** Honourable senators, I have been advised to say a "few words," and that is enough, that is all I want. It seemed to me that I was endeavouring to get the house out of a perceived procedural jam by moving the adjournment of the debate so that any honourable senator who might want to speak and who is not present at the moment would have the opportunity to speak to the motion.

On motion of Senator Sparrow, debate adjourned.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### SEVENTH REPORT OF COMMITTEE ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Austin, P.C., seconded by the Honourable Senator Callbeck, for the adoption of the seventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament (official third party recognition) presented in the Senate on November 6, 2001.—(*Honourable Senator Corbin*).

**Hon. Eymard G. Corbin:** Honourable senators, I do not intend to pursue this matter any further.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

## STUDY ON MATTERS RELATING TO FISHING INDUSTRY

### REPORT OF FISHERIES COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the third report (interim) of the Standing Senate Committee on Fisheries entitled: *Aquaculture in Canada's Atlantic and Pacific Regions*, deposited with the Clerk of the Senate on June 29, 2001.—(*Honourable Senator Robertson*).

**Hon. Brenda M. Robertson:** Honourable senators, I rise to speak to the report entitled "Aquaculture in Canada's Atlantic and Pacific Regions," which was tabled in the Senate by the Standing Senate Committee on Fisheries on June 29, 2001.

Canada has a very long coastline. In fact, it has the longest coastline of any country in the world. However, not all of its coasts are suitable for fish farming and this may explain why Canadian production represents only a very small percentage of the world's total supply, about 2 per cent in terms of volume. The climate, of course, is another limiting factor.

In Canada, salmon is the most important species cultivated, representing approximately 81 per cent of the total value, which is around \$611 million, generated by aquaculture in 2000. In my own province of New Brunswick, salmon farming is a big success, with production worth \$190 million in 2000, with the sector being the province's largest agri-food sector.

Honourable senators, people in my province refer to the miracle of Charlotte County, a rural area with previously high levels of unemployment that has been transformed into a major sector for aquaculture production and research. As many honourable senators are undoubtedly aware, these days the Atlantic region salmon growers are facing low market prices in the United States, their main market. They blame the Chilean producers, who are said to be engaging in dumping in the United States, selling fish at below production costs. The Chilean companies in question are said to be very large, diversified, and able to sustain large losses. Canadian salmon growers have asked the federal government to investigate and for a \$50-million support package.

This issue, honourable senators, is a difficult one to resolve because it involves the United States domestic market. The Atlantic industry supports the federal government's direct efforts with Chile to resolve the issue before local companies go under, which would affect some 4,000 people employed in aquaculture in Newfoundland, Nova Scotia and New Brunswick, with 3,000 in my province.

Chile produced 218,000 tonnes of Atlantic salmon in 2001, and its production is expected to reach between 230,000 to 260,000 tonnes this year. Total world production could reach 1 million tonnes this year. As you can see, this amount excludes coho and rainbow trout, which are sold mainly in Asia. Large quantities of frozen salmon are reportedly waiting to be sold, but you can see by the comparison of numbers that we have a major problem, and it will get worse.

In comparison, last year New Brunswick produced about 25,000 tonnes and British Columbia came in at slightly under 50,000 tons. One only needs to look at a map of Chile, with its very long coastline, the second largest farm salmon producer in the world after Norway, to see why that country has the capacity for even more production. According to a recent Chilean news report, eight years from now production in one region alone may increase from 30,000 tonnes to 300,000 tonnes. As each year passes, the problem becomes larger.

The president of the B.C. Salmon Farmers Association reportedly favours an international co-operative marketing push to promote farmed fish. On this point I should like to mention that, 10 years ago, when I chaired the Senate Fisheries Committee, the Atlantic lobster industry found itself, for the first time ever, in a similar situation of market uncertainty. There was an oversupply of product on the world markets which led to drastic price reductions. This proved to be a very sobering experience for the Canadian industry. Markets improved largely because of an industry focus on markets, new products, generic marketing and the creation of a generic industry marketing association that was then called the Canadian Atlantic Lobster Promotion Association, or CALPA. That no longer exists because the problem with respect to lobster has been solved. However, it could be useful for the industry to look at a similar course of action with respect to farmed salmon. Of course, that decision should be made by the industry.



Honourable senators, a major theme of the committee's aquaculture report was that of cooperation and the need for the various coastal interests to build on common interests. In respect to cooperation, senators may be interested to learn immediate and positive results arose from one of our committee meetings in New Brunswick. In St. Andrews, in February of 2000, committee members met informally with representatives of five government industry groups. Prior to that meeting the representatives had spent a good deal of time identifying and agreeing on science-based issues. Subsequent to our visit they met again, and this eventually led to a proposal for collaborative research in order to better understand the ecosystem of the Bay of Fundy where most of New Brunswick salmon production originates.

More dialogue and cooperative working relationships are needed between the various coastal stakeholders, including fish and shellfish farmers and the traditional fishery environmental groups, conservationists and Aboriginal people. In this regard, the Department of Fisheries and Oceans has a critical role to play, mainly because of its responsibilities for ocean and coastal zone management under the Oceans Act of 1997.

Honourable senators, I will also state the obvious: The aquaculture sector must seek the support of communities with which they share space. There must be more public participation and meaningful consultation with the public in the site licence approval process. Governments must manage the industry in a transparent manner to build public confidence, and bad operators should not be allowed to operate.

Another passing observation is that the executive director of the Canadian Aquaculture Industry Alliance and a vice-president of the Atlantic Salmon Federation recently appeared together before the House of Commons Committee on Fisheries and Oceans on October 30. That is a very good start for two traditional adversaries, and I congratulate them. While their views differed, regarding the possible adverse impacts of salmon farming on wild Atlantic stocks on the East Coast, they both agreed on the need to collaborate. They also both agreed that the federal government should increase the amount of research into the relationship between wild and farm salmon.

That, honourable senators, was the premise of a major recommendation in the Senate committee's report, recommendation No. 7. At this point there is much speculation about the possible impacts that aquaculture may have on wild fish, and the Department of Fisheries and Oceans will need to put much more money into its science program. More cooperative research is also needed. Although the two sides of the salmon aquaculture debate approach issues from different angles, the Senate committee found that there was some common ground in the form of shared interests and objectives.

• (1640)

For example, neither side of the debate wants to see the escape of farmed fish or transmission of disease, and both want a clean environment as well as more research. In their report, committee members pointed out that there are also collaborative

opportunities between both the traditional "wild" fisheries and aquaculture. For example, they heard about a sea-ranching pilot project in place in the Magdalen Islands where scallop fishers are managing their fishery and seeding their scallop beds with juvenile scallops that are raised using aquaculture techniques. There are other similar enhancement projects for scallops on the East Coast. The committee recommended that initiatives aimed at enhancing or sea ranching indigenous species of shellfish, such as scallops, be supported by governments. That is our recommendation No. 9.

In his speech of October 23, Senator Comeau described the committee's fish farming report as a snapshot in time. I agree with Senator Comeau. I should also like to point out that the aquaculture report is a final report. I mention this because some people in the media have misinterpreted the words "interim report" that appear on the front of the document to mean the committee's study is a preliminary report.

Lastly, honourable senators, I should like to say that fish and shellfish farming is an industry that is here to stay. Having said that, a number of issues need to be resolved. Regulatory processes need to be reviewed and improved to ensure greater transparency and public accountability. Because of environmental and fish habitat concerns on the East Coast, the committee recommended that the Auditor General of Canada undertake an audit in the Atlantic region similar to that conducted last year in the Pacific region. The audit's objective would be to determine whether the Department of Fisheries and Oceans is meeting its legislative obligations for fish habitat.

On motion of Senator Mahovlich, debate adjourned.

### LESSONS TO BE DRAWN FROM TRAGEDY OF TERRORIST ATTACKS IN UNITED STATES ON SEPTEMBER 11, 2001

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator De Bané, P.C., calling the attention of the Senate to certain lessons to be drawn from the tragedy that occurred on September 11, 2001.—(*Honourable Senator Roche*).

**Hon. Douglas Roche:** Honourable senators, as the shock of the terrorist attacks on September 11, 2001, recedes and the war on terrorism moves into a new stage, there is a precious but fleeting opportunity, indeed a requirement, to ensure that the international community's response and Canada's response is the right one. Senator De Bané is to be congratulated for asking the Senate to consider the lessons from this watershed moment.

The meaning of September 11 goes well beyond the events themselves and the response to it thus far. We must realize that the most fundamental of human rights is now at stake: our freedom to live without fear.

This basic right is under threat from an increasingly complex globalized system where poverty, environmental disaster and violence loom. Yet our overall response is still rooted in an outdated, militarist mentality with few long-range answers.

In this context, I should like to offer three important, but by no means exhaustive, lessons to be drawn. Canada must address the following: first, the dark side of globalization that fans the flames of violence and extremism; second, the imperative to work multilaterally through the United Nations system and the system of law it underpins; third, the need to revitalize disarmament efforts or risk a far more uncertain and potentially calamitous future.

There is, perhaps, no better way to see the challenge facing humanity than through the words of UN Secretary-General Kofi Annan in his millennium report. He said:

The century just ended was disfigured, time and again, by ruthless conflict. Grinding poverty and striking inequality persist within and among countries even amidst unprecedented wealth. Diseases, old and new, threaten to undo painstaking progress. Nature's life-sustaining services, on which our species depends for its survival, are being seriously disrupted and degraded by our own everyday activities.

The accuracy of this characterization of our world is even more timely in the wake of September 11.

The first major lesson concerns our approach to globalism. More than the flow of money and commodities, globalization is the growing interdependence of the world's people through compressed space, time and vanishing borders. Unfortunately, we have approached this new reality using the old paradigms of economic and military power and dominance. Globalization has thus far benefited only a few in world terms, while producing many losers among and within nations. According to the UN Human Development Report of 1999, the result is a "grotesque and dangerous polarization" between the rich and the poor.

Terrorism feeds on the hatreds and resentments that have been built up in the rest of the world against Western society as it continues to reap much of the benefits from globalization. The statistics are all too familiar: half the world's population living in abject poverty and 80 per cent living on less than 20 per cent of global income. Too many people in too many countries lack the freedom to take advantage of the new opportunities of modern technology and are consequently left on the sidelines. In the global village, sooner or later, someone else's poverty becomes one's own problem.

Yesterday, at the World Economic Forum in New York, Secretary-General Annan drove this point home when he said:

Left alone in their poverty, these countries are all too likely to collapse, or relapse, into conflict and anarchy, a menace to their neighbours and potentially — as the events of September 11 so brutally reminded us — a threat to global

security. Yet, taken together, their peoples represent a very large potential market — and many of their disadvantages could be offset if international business and donor governments adopted a common strategy aimed at making them more attractive to investment and ensuring that it reaches them.

I was glad to see Prime Minister Chrétien take a leadership role at the World Economic Forum in calling for more aid for Africa. The world must shift focus to the human agenda, not just the military or corporate ones. It means shifting our spending priorities away from the latest weaponry and toward the latest development projects, cancelling the crushing debt burdens of developing countries and building the body of effective international law. These are the most basic prerequisites for social justice.

The second lesson from September 11 is that we must address globalization globally. This means working within the United Nations system and giving it the political and economic resources it needs for the challenges ahead. As important as the Security Council is, it alone cannot guarantee sustaining peace. Other parts of the UN, including the UN High Commissioner for Human Rights, the International Atomic Energy Agency and UNICEF, to name just three of many bodies, must be provided with the funding they need if we are to build a lasting foundation for peace. Instead of strengthening these vital instruments of human security, the world continues to prepare for war. War and the preparation for war are the greatest impediments to human progress, fostering a vicious cycle of arms buildups, violence and poverty.

•(1650)

Governments plead that they have little money for social programs, yet they are currently spending \$800 billion a year on military expenditures, which is 80 times more than the \$10 billion they spend on the entire United Nations system.

The largest military increase is happening in the U.S. President Bush has recently requested \$48 billion more for the defence budget, next year alone, bringing the U.S. up to \$380 billion, and signalling the largest defence budget increase in 20 years. Not content with a military budget that is larger than the military spending of the next 15 countries combined, and which is even greater than the entire state budget of Russia, the president and his generals want even more money in the years ahead. This reckless drive to even more military dominance is alarming countries around the world, including many of our partners in NATO.

The United Nations, which won the Nobel Peace Prize in 2001, is uniquely positioned to foster a globalized world of peace and justice. When the UN millennium summit of world leaders was held, a declaration was adopted establishing priorities for the UN to overcome poverty, to put an end to conflict, to meet the needs of Africa, to promote democracy and the rule of law, and to protect the environment. The UN must be enabled to implement this agenda.



The third lesson deals with reducing the threat of nuclear terrorism. We must strengthen the global norm against the use or proliferation of weapons of mass destruction and create a body of international law to ensure universality, verification and full implementation of key treaties. This is what Janantha Dhanapala, the UN Under-Secretary-General for Disarmament Affairs, with whom I had the pleasure of meeting yesterday, is calling for in saying that our current weapons-based approach to security is ineffective. What is missing, Mr. Dhanapala says, is "an emphasis on the need for deeper multilateral cooperation rooted in binding legal norms and implemented with the assistance of global international organizations."

It is through strengthening verifiable agreements such as the Anti-Ballistic Missile Treaty, the Comprehensive Test Ban Treaty, the Chemical and Biological Weapons Conventions and the non-proliferation treaty that we stand our best chance of preventing these weapons from falling into unscrupulous hands.

Though President Bush's recent announcement of a cut in the number of deployed nuclear weapons is welcome, the cuts are unilateral and voluntary, not codified, and most of the weapons will not in fact be destroyed. *The Globe and Mail* called this "smoke and mirrors."

Cuts in nuclear weapons outside the framework of international treaties lack transparency and verifiability, thus raising the possibility of reversion. It is not unilateral acts, however entrancing, that will secure international peace and security. Rather, it is negotiations to build a body of law that cannot be changed by political caprice that will ensure a safer future.

Finally, honourable senators, for Canada there is a special lesson in considering the lessons I have outlined above. We must do more. It is not enough to amend our immigration, refugee and anti-terrorist legislation, for we are living in a time that demands more of us. Where are the thoughtful and innovative solutions to the world's challenges that have been a hallmark of Canadian diplomacy? There is a perception that for Canada to maintain sovereignty over its own affairs it must substantially increase the amount of money it spends on its military. Militarism is not the answer. If Canada goes down this road and accepts militarism as the currency of sovereignty, we will be subscribing to the old, outdated and myopic attitude dominating the international agenda today. Canada must resist widening the war on terrorism to include Iraq, North Korea and Iran as President Bush forecast last week when he characterized these three countries as "the axis of evil."

If Canada is to maintain control over its own policies, it must step forward and voice its long held values on the prime issues of human rights and international law. It is said that Canada's hands are tied because of our economic dependence on the U.S. I ask: Does this relationship necessarily mean that our integrity and sense of compassion, equity and justice should be sacrificed? Canada is caught in a dilemma. Our fundamental values lie with the United Nations system that we recognize as the guarantor of international peace and security, but our perceived protection lies with the U.S.-led western military alliance now prosecuting a

war on terrorism. Before September 11, there was a reasonable compatibility between the two systems, but the resurgence of a philosophy bent on militarism and the prospect of an enlarged war on terrorism is forcing Canada to choose with which entity it will align itself.

The U.S. has pulled out of the Kyoto accords on global warming; it has voiced its disdain for the International Criminal Court; and it is studying the idea of resuming nuclear testing. It has rejected the Comprehensive Test Ban Treaty and given notice of its intention to pull out of the Anti-Ballistic Missile Treaty, which is widely considered a cornerstone of international arms control, and the Treaty on the Non-proliferation of Nuclear Weapons in particular. It is pushing ahead with a national missile defence system, thus clearing a path for the weaponization of outer space. Why is Canada mute on these issues?

Canada has always considered a comprehensive test ban treaty to be essential to nuclear arms control and to the viability of the nuclear non-proliferation treaty. Let Canada reaffirm this at the forthcoming NPT meeting at the UN in April.

Honourable senators, Senator De Bané is right: Canadians must be better informed on the real meaning of the tragic events of September 11, 2001. If we are worried about smoothing the rough edges of globalization, if we value international cooperation, if we desire a future free from the nuclear shadow, then let us act today to raise up our society and its political discourse and project out into the international community the values that make Canada especially equipped to offer a solution.

On motion of Senator LaPierre, debate adjourned.

[Translation]

## PRIVACY RIGHTS CHARTER

### INQUIRY WITHDRAWN

On Inquiry No. 39 by the Honourable Senator Finestone:

That she will be drawing the attention of the Senate to the importance of adopting a Charter for the Right to Privacy, particularly in these difficult times.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, this notice of inquiry currently stands in the name of the Honourable Sheila Finestone, who is no longer a member of this house. Does the Senate see fit to withdraw this inquiry from the Order Paper?

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

Inquiry withdrawn.

The Senate adjourned until Wednesday, February 6, 2002, at 1:30 p.m.





## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

**THE SPEAKER**

THE HONOURABLE DANIEL P. HAYS

**THE LEADER OF THE GOVERNMENT**

THE HONOURABLE SHARON CARSTAIRS, P.C.

**THE LEADER OF THE OPPOSITION**

THE HONOURABLE JOHN LYNCH-STAUTON

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**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

GARY O'BRIEN

**LAW CLERK AND PARLIAMENTARY COUNSEL**

MARK AUDCENT

**USHER OF THE BLACK ROD (ACTING)**

BLAIR ARMITAGE



## THE MINISTRY

According to Precedence

(February 5, 2002)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. David M. Collenette	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Leader of the Government in the House of Commons Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Deputy Prime Minister and Minister of Infrastructure and Crown Corporations
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Health
The Hon. Allan Rock	Minister of Industry
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Lucienne Robillard	President of the Treasury Board
The Hon. Martin Cauchon	Minister of Justice and Attorney General of Canada
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Minister of Public Works and Government Services
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Natural Resources
The Hon. Claudette Bradshaw	Minister of Labour and Secretary of State (Multiculturalism) (Status of Women)
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Elinor Caplan	Minister for National Revenue
The Hon. Denis Coderre	Minister of Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of Fisheries and Oceans
The Hon. Rey Pagtakhan	Minister of Veterans Affairs
The Hon. Susan Whelan	Minister for International Cooperation
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Gerry Byrne	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. David Kilgour	Secretary of State (Asia-Pacific)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Maurizio Bevilacqua	Secretary of State (Science, Research and Development)
The Hon. Paul DeVillers	Secretary of State (Amateur Sport) and Deputy Leader of the Government in the House of Commons
The Hon. Gar Knutson	Secretary of State (Central and Eastern Europe and Middle East)
The Hon. Denis Paradis	Secretary of State (Latin America and Africa) (Francophonie)
The Hon. Claude Drouin	Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. John McCallum	Secretary of State (International Financial Institutions)
The Hon. Stephen Owen	Secretary of State (Western Economic Diversification) (Indian Affairs and Northern Development)

## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(February 5, 2002)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.



## ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Chestermere, Alta.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
Ronald J. Duhamel, P.C.	Manitoba	St. Boniface, Man.

## SENATORS OF CANADA

## ALPHABETICAL LIST

(February 5, 2002)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	PC
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Duhamel, Ronald J., P.C.	Manitoba	St. Boniface, Man.	Lib
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib



## SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauzon	Quebec, Que.	Lib
Murray, Lowell P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Chestermere, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind

# SENATORS OF CANADA

## BY PROVINCE AND TERRITORY

(February 5, 2002)

### ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C. ....	Pakenham .....	Ottawa
2 Peter Alan Stollery .....	Bloor and Yonge .....	Toronto
3 Peter Michael Pitfield, P.C. ....	Ottawa-Vanier .....	Ottawa
4 Jeremiah S. Grafstein .....	Metro Toronto .....	Toronto
5 Anne C. Cools .....	Toronto-Centre-York .....	Toronto
6 Colin Kenny .....	Rideau .....	Ottawa
7 Norman K. Atkins .....	Markham .....	Toronto
8 Consiglio Di Nino .....	Ontario .....	Downsview
9 James Francis Kelleher, P.C. ....	Ontario .....	Sault Ste. Marie
10 John Trevor Eyton .....	Ontario .....	Caledon
11 Wilbert Joseph Keon .....	Ottawa .....	Ottawa
12 Michael Arthur Meighen .....	St. Marys .....	Toronto
13 Marjory LeBreton .....	Ontario .....	Manotick
14 Landon Pearson .....	Ontario .....	Ottawa
15 Jean-Robert Gauthier .....	Ottawa-Vanier .....	Ottawa
16 Lorna Milne .....	Peel County .....	Brampton
17 Marie-P. Poulin .....	Northern Ontario .....	Ottawa
18 The Very Reverend Dr. Lois M. Wilson .....	Toronto .....	Toronto
19 Francis William Mahovlich .....	Toronto .....	Toronto
20 Vivienne Poy .....	Toronto .....	Toronto
21 Isobel Finnerty .....	Ontario .....	Burlington
22 Jim Tunney .....	Ontario .....	Grafton
23 Laurier L. LaPierre .....	Ontario .....	Ottawa
24 .....	.....	.....



## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber .....	Victoria .....	Westmount
2 Charlie Watt .....	Inkerman .....	Kuujuaq
3 Pierre De Bané, P.C. ....	De la Vallière .....	Montreal
4 Roch Bolduc .....	Gulf .....	Sainte-Foy
5 Gérard-A. Beaudoin .....	Rigaud .....	Hull
6 John Lynch-Staunton .....	Grandville .....	Georgeville
7 Jean-Claude Rivest .....	Stadacona .....	Quebec
8 Marcel Prud'homme, P.C. ....	La Salle .....	Montreal
9 W. David Angus .....	Alma .....	Montreal
10 Pierre Claude Nolin .....	De Salaberry .....	Quebec
11 Lise Bacon .....	De la Durantaye .....	Laval
12 Céline Hervieux-Payette, P.C. ....	Bedford .....	Montreal
13 Shirley Maheu .....	Rougemont .....	Ville de Saint-Laurent
14 Lucie Pépin .....	Shawinigan .....	Montreal
15 Marisa Ferretti Barth .....	Repentigny .....	Pierrefonds
16 Serge Joyal, P.C. ....	Kennebec .....	Montreal
17 Joan Thorne Fraser .....	De Lorimier .....	Montreal
18 Aurélien Gill .....	Wellington .....	Mashteuiatsh, Pointe-Bleue
19 Raymond C. Setlakwe .....	The Laurentides .....	Thetford Mines
20 Yves Morin .....	Lauzon .....	Quebec
21 Jean Lapointe .....	Saurel .....	Magog
22 Michel Biron .....	Mille Isles .....	Nicolet
23 .....	.....	.....
24 .....	.....	.....

## SENATORS BY PROVINCE—MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C. ....	The Highlands .....	Sydney
2 Michael Kirby .....	South Shore .....	Halifax
3 Gerald J. Comeau .....	Nova Scotia .....	Church Point
4 Donald H. Oliver .....	Nova Scotia .....	Halifax
5 John Buchanan, P.C. ....	Halifax .....	Halifax
6 J. Michael Forrestall .....	Dartmouth and Eastern Shore ..	Dartmouth
7 Wilfred P. Moore .....	Stanhope St./Bluenose .....	Chester
8 Jane Cordy .....	Nova Scotia .....	Dartmouth
9 Gerard A. Phalen .....	Nova Scotia .....	Glace Bay
10 .....		

## NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin .....	Grand-Sault .....	Grand-Sault
2 Brenda Mary Robertson .....	Riverview .....	Shediac
3 Noël A. Kinsella .....	Fredericton-York-Sunbury ..	Fredericton
4 John G. Bryden .....	New Brunswick .....	Bayfield
5 Rose-Marie Losier-Cool .....	Tracadie .....	Bathurst
6 Fernand Robichaud, P.C. ....	Saint-Louis-de-Kent .....	Saint-Louis-de-Kent
7 Viola Léger .....	New Brunswick .....	Moncton
8 Joseph A. Day .....	Saint John-Kennebecasis ....	Hampton
9 .....		
10 .....		

## PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter .....	Prince Edward Island .....	Charlottetown
2 Catherine S. Callbeck .....	Prince Edward Island .....	Central Bedeque
3 Elizabeth M. Hubley .....	Prince Edward Island .....	Kensington
4 .....		



## SENATORS BY PROVINCE—WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak .....	Manitoba .....	Winnipeg
2 Janis G. Johnson .....	Winnipeg-Interlake .....	Winnipeg
3 Terrance R. Stratton .....	Red River .....	St. Norbert
4 Sharon Carstairs, P.C. ....	Manitoba .....	Victoria Beach
5 Richard H. Kroft .....	Manitoba .....	Winnipeg
6 Ronald J. Duhamel, P.C. ....	Manitoba .....	St. Boniface

## BRITISH COLUMBIA—6

THE HONOURABLE		
1 Edward M. Lawson .....	Vancouver .....	Vancouver
2 Jack Austin, P.C. ....	Vancouver South .....	Vancouver
3 Pat Carney, P.C. ....	British Columbia .....	Vancouver
4 Gerry St. Germain, P.C. ....	Langley-Pemberton-Whistler .	Maple Ridge
5 Ross Fitzpatrick .....	Okanagan-Similkameen .....	Kelowna
6 Mobina S.B. Jaffer. ....	British Columbia .....	North Vancouver

## SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow .....	Saskatchewan .....	North Battleford
2 A. Raynell Andreychuk .....	Regina .....	Regina
3 Leonard J. Gustafson .....	Saskatchewan .....	Macoun
4 David Tkachuk .....	Saskatchewan .....	Saskatoon
5 John Wiebe .....	Saskatchewan .....	Swift Current
6 .....	.....	.....

## ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i> .....	Calgary .....	Calgary
2 Joyce Fairbairn, P.C. ....	Lethbridge .....	Lethbridge
3 Nicholas William Taylor. ....	Sturgeon .....	Chestermere
4 Thelma J. Chalifoux .....	Alberta .....	Morinville
5 Douglas James Roche .....	Edmonton .....	Edmonton
6 Tommy Banks .....	Alberta .....	Edmonton

## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody .....	Harbour Main-Bell Island ....	St. John's
2 Ethel Cochrane .....	Newfoundland .....	Port-au-Port
3 William H. Rompkey, P.C. ....	Labrador .....	North West River, Labrador
4 Joan Cook .....	Newfoundland .....	St. John's
5 George Furey .....	Newfoundland and Labrador .	St. John's
6 .....		

## NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston .....	Northwest Territories .....	Fort Simpson

## NUNAVUT—1

THE HONOURABLE		
1 Willie Adams .....	Nunavut .....	Rankin Inlet

## YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen .....	Yukon Territory .....	Whitehorse



## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of February 5, 2002)

\*Ex Officio Member

## ABORIGINAL PEOPLES

**Chair: Honourable Senator Chalifoux****Deputy Chair: Honourable Senator Johnson****Honourable Senators:**

Carney,	Christensen,	Johnson,	Pearson,
*Carstairs (or Robichaud),	Cochrane,	Léger,	Sibbeston,
Chalifoux,	Gill,	*Lynch-Staunton (or Kinsella),	St. Germain,
	Hubley,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Carney, \*Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill,  
Johnson, \*Lynch-Staunton (or Kinsella), Pearson, Rompey, Sibbeston, Tkachuk, Wilson.

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## AGRICULTURE AND FORESTRY

**Chair: Honourable Senator Gustafson****Deputy Chair: Honourable Senator Wiebe****Honourable Senators:**

Biron,	Day,	*Lynch-Staunton (or Kinsella),	Stratton,
*Carstairs (or Robichaud),	Gustafson,	Oliver,	Tkachuk,
Chalifoux,	Hubley,	Phalen,	Tunney,
	LeBreton,		Wiebe.

*Original Members as nominated by the Committee of Selection*

\*Carstairs (or Robichaud), Chalifoux, Fairbairn, Fitzpatrick, Gill, Gustafson, LeBreton,  
\*Lynch-Staunton (or Kinsella), Milne, Oliver, Stratton, Taylor, Tkachuk, Wiebe.

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## BANKING, TRADE AND COMMERCE

**Chair: Honourable Senator Kolber****Deputy Chair: Honourable Senator Tkachuk****Honourable Senators:**

Angus,	Furey,	Kroft,	Oliver,
*Carstairs (or Robichaud),	Hervieux-Payette,	*Lynch-Staunton (or Kinsella),	Poulin,
Fitzpatrick,	Kelleher,	Meighen,	Setlakwe,
	Kolber,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Angus, \*Carstairs (or Robichaud), Furey, Hervieux-Payette, Kelleher, Kolber, Kroft,  
\*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk, Wiebe.

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**ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES****Chair: Honourable Senator Taylor****Deputy Chair: Honourable Senator Spivak****Honourable Senators:**

Adams,	Christensen,	Kelleher,	Sibbeston,
Banks,	Cochrane,	Kenny,	Spivak,
Buchanan,	Eyton,	*Lynch-Staunton (or Kinsella),	Taylor.
*Carstairs (or Robichaud),	Finnerty,		

***Original Members as nominated by the Committee of Selection***

*Banks, Buchanan, \*Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kelleher, Kenny, \*Lynch-Staunton (or Kinsella), Sibbeston, Spivak, Taylor, Watt.*

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**FISHERIES****Chair: Honourable Senator Comeau****Deputy Chair: Honourable Senator Cook****Honourable Senators:**

Adams,	Cook,	*Lynch-Staunton (or Kinsella),	Phalen,
*Carstairs (or Robichaud),	Jaffer,	Mahovlich,	Robertson,
Comeau,	Johnson,	Meighen,	Tunney,
			Watt.

***Original Members as nominated by the Committee of Selection***

*Adams, Callbeck, \*Carstairs (or Robichaud), Carney, Chalifoux, Comeau, Cook, \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.*

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**FOREIGN AFFAIRS****Chair: Honourable Senator Stollery****Deputy Chair: Honourable Senator Andreychuk****Honourable Senators:**

Andreychuk,	*Carstairs (or Robichaud),	Di Nino,	*Lynch-Staunton (or Kinsella),
Austin,	Corbin,	Grafstein,	Setlakwe,
Bolduc,	De Bané,	Graham,	Stollery.
Carney,		Losier-Cool,	

***Original Members as nominated by the Committee of Selection***

*Andreychuk, Austin, Bolduc, Carney, \*Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, \*Lynch-Staunton (or Kinsella), Poulin, Stollery.*

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## HUMAN RIGHTS

**Chair: Honourable Senator Andreychuk****Deputy Chair: Honourable Senator****Honourable Senators:**

Andreychuk,	Cochrane,	Kinsella,	Poy,
Beaudoin,	Ferretti Barth,	*Lynch-Staunton (or Kinsella),	Taylor,
*Carstairs (or Robichaud),			Wilson.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Beaudoin, \*Carstairs (or Robichaud), Ferretti Barth, Finestone,  
Kinsella, \*Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.*

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## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

**Chair: Honourable Senator Kroft****Deputy Chair: Honourable Senator****Honourable Senators:**

Austin,	Di Nino,	Kenny,	Milne,
*Carstairs (or Robichaud),	Doody,	Kroft,	Murray,
Comeau,	Furey,	*Lynch-Staunton (or Kinsella),	Poulin,
De Bané,	Gauthier,	Maheu,	Stollery, Stratton.

*Original Members as nominated by the Committee of Selection*

*Austin, \*Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier,  
Kenny, Kroft, \*Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

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## LEGAL AND CONSTITUTIONAL AFFAIRS

**Chair: Honourable Senator Milne****Deputy Chair: Honourable Senator Beaudoin****Honourable Senators:**

Andreychuk,	Cools,	*Lynch-Staunton (or Kinsella),	Nolin,
Beaudoin,	Fraser,		Pearson,
Buchanan,	Grafstein,	Milne,	Rivest.
*Carstairs (or Robichaud),	Joyal,	Moore,	

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Atkins, Beaudoin, Buchanan, \*Carstairs (or Robichaud), Cools, Fraser, Grafstein,  
Joyal, \*Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

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**LIBRARY OF PARLIAMENT (Joint)**

**Chair: Honourable Senator Bryden**  
**Honourable Senators:**

Beaudoin,  
 Bryden.

**Deputy Chair:**

Cordy,

Oliver,

Poy.

*Original Members agreed to by Motion of the Senate*  
*Beaudoin, Bryden, Cordy, Oliver, Poy.*

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**NATIONAL FINANCE**

**Chair: Honourable Senator Murray**  
**Honourable Senators:**

Bolduc,  
 \*Carstairs  
 (or Robichaud),  
 Cools,

Doody,  
 Ferretti Barth,  
 Finnerty,  
 Furey,

**Deputy Chair: Honourable Senator Finnerty**

Kinsella,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Mahovlich,

Murray,  
 Rompkey,  
 Stratton,  
 Tunney.

*Original Members as nominated by the Committee of Selection*  
*Banks, Bolduc, \*Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette,*  
*Kinsella, Kirby, \*Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.*

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**NATIONAL SECURITY AND DEFENCE**

**Chair: Honourable Senator Kenny**  
**Honourable Senators:**

Atkins,  
 Banks,  
 \*Carstairs  
 (or Robichaud),

Cordy,  
 Day,  
 Forrestall,

**Deputy Chair: Honourable Senator Forrestall**

Kenny,  
 LaPierre,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Meighen,  
 Wiebe.

*Original Members as nominated by the Committee of Selection*  
*Atkins, \*Carstairs (or Robichaud), Cordy, Forrestall, Hubley, Kenny,*  
*\*Lynch-Staunton (or Kinsella), Meighen, Pépin, Rompkey, Wiebe.*

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**VETERANS AFFAIRS****(Subcommittee of National Security and Defence)****Chair: Honourable Senator Meighen**  
**Honourable Senators:****Deputy Chair: Honourable Senator Wiebe**

Atkins,	Day,	*Lynch-Staunton	Meighen.
		(or Kinsella),	
*Carstairs	Kenny,		Wiebe.
(or Robichaud),			

**OFFICIAL LANGUAGES (Joint)****Chair: Honourable Senator Maheu**  
**Honourable Senators:****Deputy Chair:**

Beaudoin,	Fraser,	Léger,	Setlakwe.
Bolduc,	Gauthier,	Maheu,	

***Original Members agreed to by Motion of the Senate****Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlakwe, Simard.***RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT****Chair: Honourable Senator Austin**  
**Honourable Senators:****Deputy Chair: Honourable Senator Stratton**

Andreychuk,	Di Nino,	Kroft,	Nolin,
Austin,	Gauthier,	Losier-Cool,	Pitfield,
Bryden,	Grafstein,	*Lynch-Staunton	Poulin,
		(or Kinsella),	Robertson,
*Carstairs	Joyal,	Murray,	Stratton.
(or Robichaud),			

***Original Members as nominated by the Committee of Selection****Andreychuk, Austin, Bryden, \*Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, \*Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

### SCRUTINY OF REGULATIONS (Joint)

**Chair: Honourable Senator Hervieux-Payette**

**Deputy Chair:**

**Honourable Senators:**

Bryden,	Hubley,	Kinsella,	Nolin.
Hervieux-Payette,	Jaffer,	Moore,	

*Original Members agreed to by Motion of the Senate*

*Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.*

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### SELECTION

**Chair: Honourable Senator Rompkey**

**Deputy Chair: Honourable Senator Stratton**

**Honourable Senators:**

Austin,	Corbin,	Kinsella,	Robertson,
*Carstairs	Fairbairn,	LeBreton,	Rompkey,
(or Robichaud),	Graham,	*Lynch-Staunton (or Kinsella),	Stratton.

*Original Members agreed to by Motion of the Senate*

*Austin, \*Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella  
LeBreton, \*Lynch-Staunton (or Kinsella), Mercier, Murray.*

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### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

**Chair: Honourable Senator Kirby**

**Deputy Chair: Honourable Senator LeBreton**

**Honourable Senators:**

Callbeck,	Di Nino,	LeBreton,	Morin,
*Carstairs	Fairbairn,	Léger,	Roberston,
(or Robichaud),	Keon,	*Lynch-Staunton (or Kinsella),	Roche.
Cook.	Kirby,		
Cordy,			

*Original Members as nominated by the Committee of Selection*

*Callbeck, \*Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson,  
Kirby, LeBreton, \*Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

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**ON THE PRESERVATION AND  
PROMOTION OF A SENSE OF CANADIAN COMMUNITY**

(Subcommittee of Social Affairs, Science and Technology)

**Chair: Honourable Senator  
Honourable Senators:**

\*Carstairs  
(or Robichaud),

Cook,  
Cordy,

**Deputy Chair: Honourable Senator**

Kirby,  
LeBreton,

\*Lynch-Staunton  
(or Kinsella),  
Roberston.

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**TRANSPORT AND COMMUNICATIONS**

**Chair: Honourable Senator Bacon  
Honourable Senators:**

Adams,  
Bacon,  
Biron,  
Callbeck,

\*Carstairs  
(or Robichaud),  
Eyton,  
Gill,

**Deputy Chair: Honourable Senator Oliver**

Gustafson,  
LaPierre,  
\*Lynch-Staunton  
(or Kinsella),

Oliver,  
Spivak,  
Taylor.

*Original Members as nominated by the Committee of Selection*

*Adams, Angus, Bacon, Callbeck, \*Carstairs (or Robichaud), Christensen, Eyton, Finestone,  
Fitzpatrick, Forrestall, \*Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*

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**THE SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS**

**Chair: Honourable Senator Nolin  
Honourable Senators:**

Banks,  
\*Carstairs  
(or Robichaud),

Kenny,

**Deputy Chair: Honourable Senator Kenny**

\*Lynch-Staunton  
(or Kinsella),  
Maheu,

Nolin,  
Rossiter.

*Original Members as agreed to by Motion of the Senate*

*Banks, \*Carstairs (or Robichaud), Kenny, \*Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 87

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OFFICIAL REPORT  
(HANSARD)

Wednesday, February 6, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, February 6, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### THE HONOURABLE SHEILA FINESTONE, P.C.

#### TRIBUTES ON RETIREMENT

**Hon. B. Alasdair Graham:** Honourable senators, one of Canada's finest parliamentarians, the gifted Edward Blake, once said over a century ago that "the privileges of Parliament are the privileges of the people and the rights of Parliament are the rights of the people." This simple statement is enormously powerful when one really thinks about it. It reminds all of us who are privileged to be in the public service of the very great responsibilities that we bear.

As I think of the many gifted parliamentarians I have had the honour of working with over the course of my own career, I can think of very few who would rival the remarkable Senator Sheila Finestone.

**Hon. Senators:** Hear, hear!

**Senator Graham:** Over the years, Sheila has epitomized, in her dedication to the people of this country and her province, not only the words and the spirit of Blake's reflection, but also the very active and disciplined pursuit of justice, both at home and abroad.

All of us think daily of the new world in which we find ourselves as Canadians. Never have we needed more the fine personal example and wonderful dedication to people that Sheila has brought to every road she has travelled. She has planted and nourished and cultivated the seeds of freedom, both at home and across this planet, and she has done so with relentless passion and formidable purpose. She has done so with relentless passion and formidable purpose, whether as Secretary of State for Multiculturalism and the Status of Women, as leader of the Canadian delegation to the Beijing World Conference on Women, as a popular and admired president of the International Parliamentary Union, as special advisor on land mines to the Minister of Foreign Affairs, or through her continuing and untiring efforts on behalf of minorities across the country.

• (1340)

Someone once said that those who expect to reap the blessings of freedom must undergo the fatigue of supporting it. That expression has taken on new meaning in the aftermath of September 11. Canadians now search for their identity as never before. Canadians reflect upon the future of their children and their children's children as never before. Canadians look to government with increasing hope and a new understanding that public service is indeed of great importance to the future of this

country. I am confident that the year 2002 will see a continuing growth of Canadian awareness that the pundits who predicted the death of sovereignty in the new age of globalization were very wrong.

The example that Senator Finestone has set for people at home and abroad — not to speak of the example she has set as a mother of four, to her extended family and to all of us — is now more than ever a shining light for a more sombre and thoughtful Canada. It is an example for all those young people who are thinking of entering the service of their country with passion, commitment and courage. Indeed, Blake's simple words possess a value which is increasingly significant to those of us in this chamber who encourage young Canadians to give their energy, their hearts and their minds to their country.

The privileges of Parliament are, indeed, the privileges of the people, and the rights of Parliament are the rights of the people. Honourable senators, the outstanding, devoted and tireless career of Senator Sheila Finestone is a brilliant example to all that those words are fundamental to our wonderful Canadian identity, an identity which she has given all to cherish, to nurture and to defend. Thank you very much, Sheila. We have all been enriched by your example, your friendship and your presence in this chamber.

**Hon. Senators:** Hear, hear!

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, upon his retirement, Javier Perez de Cuellar, the former Secretary-General of the United Nations, observed that, now that he was a free person, he felt free and light as a feather. I reflected upon those words of the former Secretary-General, but could find no relationship between them and Senator Finestone. Therefore, I delved further and came across the words of Virginia Graham who is, as far as I know, no relation to my honourable friend opposite. Virginia Graham observed, "When some people retire, it's going to be mighty hard to be able to tell the difference." That, honourable senators, caught my imagination in that it mirrored our distinguished colleague, Senator Finestone, so much so that it is my prediction, vis-à-vis her retirement, that it may be somewhat premature for people to think of Senator Finestone as completely retiring from this hill, given that there are six by-elections on the horizon.

**Hon. Senators:** Hear, hear!

**Senator Kinsella:** Honourable senators, in the event that she enters the other place and cannot garner support for any bill that she should choose to sponsor, I would remind you of the great work Senator Finestone put into Bill S-21, and I am convinced that she will be able to garner the support of this house. While she is back in that other place, perhaps she could push amendments to the Broadcasting Act, amended by Bill S-7 which was passed in this chamber last June under her leadership.

Honourable senators, during her time in the Senate, a short three years, she has left a clear mark as one of the founding members of the Parliamentary Human Rights Group, and the first deputy chair of our Standing Senate Committee on Human Rights. Senator Finestone has worked to place human rights front and centre in policy decisions.

For many years, I have admired Senator Finestone, particularly her tenacity to stay the course when she felt strongly on issues, and I was delighted to see that tenacity continued and maintained as she worked in this house on bills such as the clarity bill, which seized the country shortly after the senator was appointed. We all recall her tough questions the government on Bill C-36. These files were not easy, as they went to the very core of Senator Finestone's beliefs in a just society.

I am quite sure that the government will continue to hear from Senator Finestone in the future. Sheila, you are a true "tzedeket," a truly righteous person, and a real "mench." In the Irish tradition, "Sheila" means "one with great insight," and in the Hebrew tradition, "Shelah" means "asked for." We will continue to ask for you.

**Hon. Senators:** Hear, hear!

**Hon. Lise Bacon:** Honourable senators, I rise in tribute to a respected public servant and a dear friend, Sheila Finestone. She has served her country for over 17 years, and she achieved numerous accomplishments throughout her career in politics since her first appointment as an MP for Mount Royal in 1984. Notably, she has been the leading advocate to eradicate poverty among the elderly, their lack of protection in the workforce, pension reform and exclusion from opportunity.

From 1984 until her appointment to the Senate in 1999, Sheila Finestone has faced with great courage and determination the burning issues of farm women, small business entrepreneurs, single parents, the disabled, the Canadian Pension Plan, and reform and pay equity for women.

Sheila worked locally but thought globally. She continually expressed a deep interest in universal issues including freedom, equality and justice. It was an interest she translated into her work in the Canadian Parliament as Secretary of State for Multiculturalism and the Status of Women and as the president of the Canadian group of the Inter-Parliamentary Union.

As the chair of the Standing Senate Committee on Transport and Communications, I must add that Sheila Finestone will be warmly remembered and deeply missed as a distinguished member of that committee. As senators, we know that one of our most important activities and where so much of our value lies is committee work. One of the major tasks of the committee is to develop awareness of an issue and help channel that awareness into consensus. Sheila Finestone's contribution to the Transport and Communications Committee remains remarkable. She possesses the intrinsic ability to assess competing camps and

quickly find areas of collaboration and compromise. Her speeches were often nobly censorious and captivated the attention of her audience for their lack of idleness and their straightforward approach to the issue under discussion.

• (1350)

Her service, however, has often gone above and beyond the legislative content of a bill. We have seen her at work with Bill S-7, an amendment to the Broadcasting Act, where she brought to light the principle of public participation as the necessary and basic element to fulfil our commitment to democracy.

Sheila Finestone's remarkable political career, her numerous awards and recognitions are only part of what makes her so unique. Anyone who has been close to Sheila knows that above and beyond eloquence, intelligence and dignity, she remains profoundly a "people's person." Her qualities are not confined to her intellect but encompass those that are matters of the heart, will and moral values — qualities she devotedly endorsed and defended throughout her life.

With boundless passion, Sheila Finestone has worked to promote the cause of women, to protect those children whose voices could not be heard, to ban anti-personnel land mines, and to bring justice, equity and freedom to the less fortunate. As she helped reweave and rebuild the fabric of our own nation, she has been also an ambassador of peace and hope to the world at large. We all owe a debt of gratitude to Sheila Finestone for her remarkable services.

Honourable senators, the Senate will genuinely miss an extraordinary member. However, we all know that Sheila does not rest on her laurels. Undoubtedly, she will continue to devote herself to worthy causes.

In tribute to you, Sheila, I say "À bientôt." I am proud to know you and to call you my friend.

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise today to pay tribute to our dear colleague who sat on our Human Rights Committee. I do not want to repeat the words that I said there, but I want to note in this house that the Human Rights Committee could not have continued and successfully concluded its first report as quickly as it did without the persistence and the loyalty that Sheila gave to the committee and the support that she gave me, in particular, as the chair of that committee.

It took us a number of years to plant the seeds that would eventually produce the Standing Senate Committee on Human Rights. We seem to be too trammelled by all the other procedures and emergencies that arise in this place. When Senator Finestone came to this chamber, she said, "Why does the Senate not have a human rights committee? This is intolerable! We will get one going." In fact, we did. The two words that are not in Sheila's vocabulary are "no" and "impossible."



When I attended my first IPU meeting, some people were of the view that there was a lot of discussion in the IPU but very little action. Again, Sheila would show up and say, "We have to do something about land mines." The first thing she would do is say, "Here is a list of parliamentarians that you must approach. You must get an undertaking of what they will do in their country. I want results. Please report back at about five o'clock this afternoon." Of course, we would laugh, but at five o'clock she would come and ask, "What have you accomplished?" She single-handedly changed the Canadian delegation to an action-oriented group. More particularly, the IPU noted Sheila's contribution and began to change. Those senators who attend IPU meetings know that there have been clear results not only in the area of land mines but also in many other areas. The IPU is slowly moving forward, a result of the constant and insistent prodding of Sheila Finestone.

In the human rights field, I have noticed her dedication to the cause of reclaiming privacy for Canadians. She has insisted on this through inquiries and bills both in this house and in our committee. What was interesting about her approach is that she understood, in this country of moderation and compromise, that words are not just words — we must live them. She would be the one on the committee who would say, "If we are to get this done, we must do so not only within the Senate. We must contact the minister and the Prime Minister." We would all ask, "How will we do that?" She would reply, "Never mind. I will do it." And she would. She never left the bureaucracy out of the equation. She had a healthy respect for the Public Service of Canada, and she knew how important they were in the success of any proposal. She was able to build the coalitions needed to get the support required for these issues.

Many honourable senators have already stated what Sheila Finestone has done in the community, so I will not repeat that. I simply want to place on the record, as I did in committee, that Sheila will not give up the many causes she has pursued merely because she has left the Senate. She will certainly find another avenue from which to prod us. She may be one of those interested witnesses who will come and testify before a particular committee. She will also ensure that the things in which she believes continue to flourish in the fertile ground of Canada.

Sheila, I know that this is only one milestone of many more to come. I look forward to working with you as I did before you were a senator. The Human Rights Committee is indebted to you for your commitment and for your foresight in understanding its mandate and in ensuring that it was always action oriented. We will continue to follow your example. Best wishes in your next endeavour.

**Hon. Senators:** Hear, hear!

**Hon. Vivienne Poy:** Honourable senators, I rise today to pay tribute to Senator Sheila Finestone, a woman who is an experienced and respected parliamentarian.

I met Sheila for the first time when she came to the Senate. Since then, I have watched her and listened to what she had to say. As I listened and learned, it became clear to me that Senator

Finestone is a woman who believes in putting words into action, as Senator Andreychuk just mentioned. She did not just talk about social justice issues and human rights; she worked toward bringing about real and effective change, both as a senator and formerly as a member of Parliament.

As I got to know her, I realized that we shared many of the same concerns. Throughout her career, Sheila has been a champion of women's rights, an advocate for multiculturalism, and she expressed concern about the conditions in developing countries. She also has very close ties to her community and continues to work with individuals, community groups and institutions. Sheila recognizes the importance of her gender and her heritage in shaping the person she has become.

Whenever Sheila took on a new challenge, whether it was during her tenure as Secretary of State for Multiculturalism and the Status of Women, or as the Canadian Chair of the Inter-Parliamentary Union, or, most recently, as Special Advisor on Land Mines, she left her mark. Part of the reason is Sheila's superb ability to assess a situation quickly and accurately and to call a spade a spade. This ability served her well on the Human Rights Committee, on which I had the good fortune to work with her.

One day, Sheila said to me that I reminded her of herself 20 years ago. Whatever she meant by that, I accepted it as the greatest of compliments. Little does she know, though, that I am a lot older than she thinks.

Sheila has now retired from the Senate and will be greatly missed. However, I have no doubt that she will continue to work in the national and international community for many years to come.

With your departure, Sheila, I feel that I am losing a valued colleague, a mentor and a friend. Like everyone here, I will miss you.

**Hon. Senators:** Hear, hear!

**Hon. Lowell Murray:** Honourable senators, permit me a word to say what a joy it has been to have worked with Senator Finestone on various occasions over the years. Those of us who share her passion for adequate protection of the right to privacy in this country will recognize and honour her leadership in the best way we know how, which is to keep that issue alive until her efforts are crowned with the success that they deserve.

• (1400)

[Translation]

**Hon. Lucie Pépin:** Honourable senators, a considerable number of us have known Sheila Finestone as an MP, a minister or a senator. Having had the privilege of knowing her before she was in Parliament, I should like to pay tribute today to her activities before making the leap to politics in 1984. Her parliamentary career had its foundations established long before she was first elected to the House of Commons.

[ Senator Andreychuk ]



It is no exaggeration to describe Sheila Finestone as a born leader. She was totally committed to her community very early on. A born catalyst, she has always devoted herself to building bridges between groups of women, such as the federation of Jewish women and the federation of francophone women, which led to her presidency of the Fédération des femmes du Québec.

At the time, the federation's membership consisted of both francophones and anglophones, and I must admit that the atmosphere of collegiality that existed in her day has not always reigned since her departure. It is no surprise that her activities on the national and international scenes have focussed on building bridges to promote women and cultural communities. Sheila's commitment also left its mark on the history of the 1980 referendum.

She was heavily involved in organizing the Yvette movement to lobby for recognition of the dignity of women, particularly homemakers. Part of the success of the referendum campaign we owe to her and to the other women leaders of the time.

Before Sheila was elected, she was well known for her involvement in the Liberal Party of Canada. Many will recall the chicken dinners and spaghetti suppers she organized throughout all the regions of Quebec, year-round, winter or summer. Her election, in which I was involved, was one of the crowning achievements of our party's history in 1984.

A woman of conviction, becoming a member of Parliament was for Sheila an accomplishment that would enable her to continue to work towards the values she held so dear: equality, freedom and justice.

My dear Sheila, on behalf of all women, not just those involved in politics, but all those whom you have motivated to advance their causes, I should like to express our gratitude. If these women continue to be committed and actively involved in claiming their rightful place, it is because you and others like you have led the way. With your degree of commitment, I am absolutely sure that you will miss the political life. You will always be welcome here on the Hill, particularly since I am sure you still have some unfinished projects.

**Hon. Joan Fraser:** Honourable senators, as a Montrealer, I knew Sheila Finestone by reputation for years before coming here, and I admired her. It was impossible not to admire a woman who had accomplished so much.

Once I came to the Senate, I got to know her as a friend and colleague. This turned out to be one of the most rewarding experiences in my life.

[English]

As this is not a funeral but a celebration of Sheila's career so far, I thought it would be appropriate to utter a few home truths

as we wish her well. I suppose the fundamental one is that Sheila Finestone has been driving people crazy for years. She drives people crazy for many reasons. First, she just wears us out.

[Translation]

Sheila is what the French call a "force de la nature."

[English]

She is a human dynamo. Heaven knows where she gets the energy, but I have seen people 20 years, 30 years or maybe 40 years younger than Sheila wiped out, exhausted and taking to their beds while Sheila was still going strong accomplishing more and more before the day would end. She is absolutely unbelievable.

Honourable senators, she drives people crazy because she is not biddable. You cannot tell Sheila what to do, unless she believes it is the right thing to do. We in this chamber have seen her more than once rise to vote against the government on bills that the government held dear. We know the kinds of persuasive arguments that are brought to bear on members of a caucus, but Senator Finestone would not vote in a way that she did not think was right. Even if I sometimes disagreed with her, I was always profoundly moved by her dedication to what she thought was right.

She has driven us crazy, perhaps not least because she is never swayed by logic, law, precedent or custom.

As Senator Andreychuk has noted, the word "no" is not in Senator Finestone's vocabulary, nor is the word "impossible." If they are used, it just means that she will work a little harder to get to where she believes we need to go, and she is so often right in her assessment of where we need to go. She has been absolutely fearless in representing the values in which she believes.

I will name just a few of those values. Senator Finestone believes in the advancement of women, justice for women in the work world, in politics and in their family lives. She particularly believes in justice for children. She also believes in the advancement of bilingualism and biculturalism in this country, and the advancement of minority language communities. As others have noted, she believes in federalism and the preservation of Canadian unity. She believes in the preservation, health and advancement of the Jewish community of Canada. Above all, and perhaps wrapping all these things together, she believes in the cause of human rights. I do not think there has been a more faithful or dedicated servant of human rights in this Parliament for many years.

Yes, she has driven us crazy, but on the way she has won the affection and respect of hundreds of people.

Honourable senators, I have been privileged to work with Sheila in the Inter-Parliamentary Union where, as Senator Andreychuk noted, she has accomplished great things, particularly for women. The IPU is an organization of Parliaments from around the world. As we all know, many of those parliaments are, shall we say, male-dominated. Sheila created a role for women. Sheila created the women's wing of the IPU, and then went around the world to ensure that it was not just fortunate western women who could participate. There are women in countries from Cambodia to Mongolia to Uruguay who have a place and recognition now in their parliaments that they never would have had had Sheila Finestone not gone to bat for them and with them. They love her for it, and so they should.

She has fought for the removal of land mines and for human rights. She has fought for everything of which I can think. I have seen in the councils of the IPU, how her directness could take issue with hypocrisy and with many evil elements of human life. In spite of her direct attack on things that were wrong, even the people she was attacking felt warmth, affection and respect for her. She would reach out to them, and they would reach back. She would end up persuading them to her point of view.

She has served Canada well here and around the world. She has helped to give us stature and respect. I think that it is fair to say we have returned those sentiments. God speed.

**Hon. Senators:** Hear, hear!

**Hon. Jeremiah S. Grafstein:** Honourable senators, on occasions such as this, it is incumbent upon us to be brutally frank and candid about our departing colleague, the Honourable Sheila Finestone.

Sheila was not always the easiest person with whom to deal. When I first encountered Sheila, she was explosive, opinionated, feisty and the newly-minted member of Parliament for that great riding of Mount Royal. We had a barbed and rather frosty exchange. It is fair to say we even clashed.

● (14:10)

I did not know anything about Sheila Finestone at the time, or her background. Unlike me, she was always very definitive in her views and was not easy to persuade. Then I discovered that her father was the great Monroe Abbey. Monroe Abbey was a civic leader in Montreal. He was influential not only in the Jewish community there, but also as a national leader across Canada. Monroe Abbey was an activist in the Canadian Jewish Congress. As a 12-year-old youngster, I had the privilege to hear Monroe Abbey speak at a community function in the late 1940s in my hometown of London, Ontario. He was impressive, persuasive and a tireless advocate for lost causes, for immigrants and for religious freedom. Monroe Abbey stood against racial discrimination. He was in favour of sports, law reform and he was a staunch and lifelong Zionist. Monroe Abbey was a member of the Order of Canada as well as a Q.C. Monroe Abbey was named after James Monroe, the fifth president of the United

States. James Monroe was the father of the Monroe Doctrine and a drafter of the American Constitution.

Honourable senators, the apple does not fall far from the tree. Sheila has left a lasting trace of activities, ranging from women's, children's, privacy and human rights to international peace and harmony, not only in Canada, but abroad. When you attend international meetings, more often than not, someone will come up and say, "Do you know my friend Sheila Finestone?" Sheila has always had a grand and great range of interests and intensity. Above all, Sheila has had and still has a fire in her belly for the underdog.

Honourable senators, not only was Sheila Finestone a great member of the House of Commons, but she was also a great senator. It is not very often that members of the House of Commons make the transition and become equally important and potent as a member of this chamber.

I extend these words to Sheila Finestone's family. To Sheila I offer the traditional blessing that she, like our matriarch Sarah, live to 127 years and have a long and fruitful life.

Happily, honourable senators, I learned just a month ago when Senator Finestone and I travelled abroad together, that she plans to continue to be a resident of Ottawa.

Sheila, I have a number of tasks that I intend to talk to you about because we need your help, creativity and energy. I promise not to clash with you too often. I will be calling you soon.

You have made us proud and privileged to be your friends. God speed.

**Hon. Senators:** Hear, hear!

**Hon. Catherine S. Callbeck:** I am very pleased today to join with my colleagues to pay tribute to a great parliamentarian, Sheila Finestone. However, I am saddened to do so, because I know she will be sorely missed by all of us here in the Senate chamber. We have lost one of our most vocal and hardest-working members.

During her short three years in the Senate, Sheila accomplished a great deal. She worked tirelessly and enthusiastically for her province, her country and for all Canadians.

Many of us here will remember Sheila for her contribution in the area of individual privacy rights. Looking after the rights of individuals always comes first with Sheila. In her years of political service, both before and during her Senate appointment, Sheila chaired and served on countless committees. I will not begin to name these committees, nor the many awards she has received throughout the years for her diligent work. However, I will say that many of these awards were given for her lifelong efforts in the defence of cultural, linguistic and minority rights, speaking up for the rights of those who felt they could not speak for themselves.



I have very much enjoyed working with Sheila on the Standing Senate Committee on Transport and Communications. There I had the opportunity to experience her skills and knowledge first-hand.

I will miss Sheila for her sharp wit and quick remarks, both in the chamber and around the committee table, for her ability to liven up any discussion and for her ability to immediately strike at the heart of any piece of legislation. More important, all Canadians who value equality and individual rights will miss Sheila Finestone in the Senate.

Sheila, I wish you all the best as you begin the next stage in your incredible career.

**Hon. Senators:** Hear, hear!

**Hon. Joyce Fairbairn:** Honourable senators, I have known Sheila Finestone for her 18 years in the Parliament of Canada. Today we have heard quite a number of vigorous words used to describe her, all of them quite true. To balance some of those words, I will add three of my own because they have endeared her to me throughout all these years and those are: "Kindness, laughter and love."

From the beginning, I kept a close eye on the member for Mount Royal in the other place because she replaced a person in whom I had invested, with great enthusiasm, a significant amount of time, effort, admiration and friendship, the Right Honourable Pierre Elliott Trudeau. No matter how you looked at that succession, those were challenging shoes to fill, and I was keen to see how Sheila would choose to do that.

Well, she used her exceptional background and skills to chart her own course in her own way, both as a member and later as a senator in this chamber. There was indeed an element of continuity in that course with her predecessor. She was actively involved into the constitutional debate during that time and since, and always with a deep love of Quebec within a united Canada.

Sheila has a passion for human rights, individual and multicultural rights, and equality rights for women, whatever their life choices might be.

In her farewell speech to this house last December, Sheila noted her role models in parliamentary life. One was that extraordinary rights activist, the late Senator Thérèse Casgrain. Another was the former health minister, Monique Bégin. The third was Mary Two-Axe Early, one of the more courageous and persistent advocates for the rights of Indian women.

Internationally, Sheila crossed paths early on with women's rights legends: Betty Friedan, Gloria Steinem and Bella Abzug. These are formidable women, but I have no doubt whatsoever that our Sheila stood toe to toe with them and gave no quarter in the history of her own life that brought that passion to the cause. It is little wonder that Sheila's role in Parliament became focused on those Canadians who make up more than 50 per cent of our population and who are still fighting for access to equality, in all its forms, in communities across our country.

When the first cabinet of this government was formed in 1993, it was inevitable that it should include Sheila Finestone as Secretary of State for Multiculturalism and the Status of Women.

Senator Fraser, with great vigour, described the degree to which Sheila drove us crazy. I do not want to breach the confidentiality of the cabinet room. I was there with Sheila at that time. I think she drove them crazy as well, and that was a good thing. I was proud of her, and we supported each other.

• (1420)

As the woman in charge of the status of women in our government, Sheila Finestone led the Canadian delegation of women senators and members of Parliament to the Third World Congress on Women in Beijing in 1995, where Canada made history with its action plan on equity rights for women. That leadership lives on, not just in memory but in action that is taking place in countries all over the world where such thoughts could not have been imagined a few short years ago.

When Sheila was appointed to the Senate in 1999, she brought that vision and energy with her. She reconfigured her focus without leaving any of her former causes behind. However, again, she got herself into vigorous and churning waters over the issue of privacy under the Charter of Rights and Freedoms. Her private bill to guarantee the human right to privacy is still on the Order Paper of the Senate. I must say that it was an interesting situation to find Sheila sitting at the head of the table as a witness before our Standing Senate Committee on Social Affairs, Science and Technology, where vigour certainly is the order of the day.

As Sheila fulfilled her role in the Senate, she always came back to the fundamentals — children, poverty and all the international concerns. She has never confined her focus to her own country. This was never as remarkably evident as when she served as the Special Adviser on Land Mines. Indeed, she is to be hugely commended, not just by us, but by all of those in the world whom she has tried to help.

After her appointment to the Senate, Sheila did not hesitate to jump right into committees with active participation. Others have said that she walked her own line. About that there is no question. Having come to us from the other place, I think we all agree that she was generous in her support of initiatives in this house, as long as they maintained a reasonable partnership with her own principles. When that was in doubt, that is when we heard from Sheila, again with vigour.

I admire Sheila Finestone enormously. Only this week, I found her haunting my thoughts as I prepared to participate in a conference in Moscow on a very progressive CIDA joint project on women and labour market reform in Russia. Over the last three years, a key player on the Canadian side of this issue has been Status of Women Canada. I was searching their records for words that would convey the essence of the issue. This is what I found:



Though we live in economically challenging times, gender equality is not a bonus of good times. Equality rights are human rights — a basic principle that shapes the way we live, in good times and hard times. There is no one answer, no one action, no one player that can make equality happen. Gender equality is everybody's business... In the new century, the nations considered the leaders of the world will be those who have achieved gender equality.

When I turned the page, I discovered that the author was none other than our former colleague Sheila Finestone. Those words will go to Russia with me.

Sheila, I send you my warmest thanks for your friendship, for your support and good wishes for all those causes that I know you will continue to champion. I will miss you. Parliament will miss you. The Senate will miss you. I say, in conclusion, that Canada would be a much poorer place without your presence.

**Hon. Laurier L. LaPierre:** Honourable senators, when I think of Sheila Finestone, I am always reminded of two magnificent women. As a historian, that is the way one thinks. One of them is Marie Gérin-Lajoie — the daughter of Sir Alexandre Lacoste — who, in the 19th century and at the beginning of the 20th century, fought five cardinals in Rome, the Pope himself and Henri Bourassa in order to be able to bring fundamental rights to the women of our country. She did not succeed very well, but what she found is that, essentially, men were very weak in the defence of women.

The second person of whom I am reminded is Madame Thérèse Casgrain, whom I knew very well and who once summoned René Lévesque, after he had moved from one position to another. I was having tea with her when René arrived and she said:

[Translation]

"Sit down and explain yourself!"

[English]

She once said that to me when I was on *This Hour Has Seven Days* and had said something of which she disapproved. She summoned me and used the exact words.

[Translation]

Dear Senator Finestone, it is your turn to let us tell you how much we love you, and this love resonates here in the Senate, in Parliament, on Parliament Hill and all across our beautiful country.

[English]

In the middle of the night, since old men have little to do in bed, I woke up and I proceeded to contact all my colleagues in

[ Senator Fairbairn ]

this chamber, all 104 of them — and I created a few as I went along, of course — in order to arrive at the following conclusion: Should Sheila Finestone intend to stand for re-election anywhere, we will all come and help her. We will work for her. In the process, we will achieve two things. We will get her elected with the largest majority in the history of the world, and we will put the Senate on the map.

**Hon. E. Leo Kolber:** Honourable senators, dear Sheila, I took a great deal of time to prepare my remarks. However, I had to tear them up and throw them away because everything has been said already. This is to tell Sheila that I concur in all the wonderful things that have been said about her. Not to unnecessarily disturb the interpreter, to wrap up, I should like to say — "biz hundert un tsvantsik." For those who are not trilingual, that means, "You should live to 120."

May you enjoy wonderful health, Sheila, bask in the warmth of your family, your children and your grandchildren, and truly savour the fruits and results of a fabulous career.

**Hon. Douglas Roche:** Honourable senators, Senator Sheila Finestone reached out to me many times with support and encouragement, particularly in the events we held when she chaired the Inter-Parliamentary Union in Canada and I chaired the Canadian Parliamentarians for Global Action.

• (1430)

Senator Finestone has been an inspiration to me. I reach out to her today with gratitude in my heart.

[Translation]

**Hon. Jean-Robert Gauthier:** Honourable senators, I met Mrs. Finestone in 1984 when she arrived on Parliament Hill. At that time, I was the Liberal Party whip in the other place. I found her to be a person who worked hard, was devoted, very disciplined, and at times demanding. One of her great strengths was the fact that she said what she thought, something, incidentally, that a number of you continue to do. When Sheila Finestone had something on her mind, she never backed down. In any case, that has been my experience after having spent 16 or 17 years working with her. I looked at Mrs. Finestone's curriculum vitae in the *Canadian Parliamentary Guide*, and there is no mention of her contribution with regard to official languages. Mrs. Finestone did a fine job of representing the English-speaking community of Montreal, both in the House of Commons and in the Senate. She even co-chaired the Standing Joint Committee on Official Languages. This should have been mentioned. Mrs. Finestone represents Canada's duality, our linguistic duality as I understand it: two official languages, one federation, one united country. Mrs. Finestone is a staunch defender of her beliefs. I congratulate and thank her. She lives in the same building as I do, and I expect to see her again, since she owes me a scotch.

**Hon. Pierre De Bané:** Honourable senators, I wish to join with my colleagues in paying tribute to Senator Sheila Finestone. A great humanitarian, she has always spoken with her heart as well as with her head, and has never shied away from the problems and challenges facing our society. It was Saint-Exupéry who said that only the heart sees clearly. Recently, Senator Finestone and I had an opportunity to take part in a debate in this chamber on the Middle East, a troubled region of the world. We both tried to make our small contribution to end the suffering of both Israeli and Palestinian families.

During a recent trip she made to the United States, Senator Finestone took the initiative of passing along to Secretary of State Colin Powell a copy of the speech I gave in this chamber on this issue. As a Canadian born in Palestine, I was deeply moved by her gesture. I admire her open-mindedness and hope that she will continue to be able to make an invaluable contribution to end the suffering in this part of the world and the terrible situation of the Palestinian people.

I thank her for her many contributions since 1984, in all of which she was guided by both her heart and her intelligence. Thank you very much, Sheila.

[English]

Senator Finestone, thank you very much. Good luck.

**Hon. Senators:** Hear, hear!

## SENATORS' STATEMENTS

### HER MAJESTY QUEEN ELIZABETH II

#### GOLDEN JUBILEE

**Hon. Jim Tunney:** Honourable senators, we have heard some wonderful tributes, and all of them deserved. I should like to turn our attention for a moment to another international figure. We have been talking about a person here whom I would call the Queen of the Canadian Parliament. I would like also at this time to refer to and pay tribute to another Queen who, 50 years ago this morning, not by her choice but because of the death of her father, became Queen of England, Queen of the British Empire and Queen of Canada. We must consider what her life must be like when her freedom is restricted, when all of her movements are judged, and not all of them positively. Yet she is willing to represent her office and her subjects and do so with grace during all these years.

It is wonderful that, when we enter this place, we pray for her, and we should never stop that tradition. Throughout the war years, the years after the war, and through the troubles and turmoils that we have seen since, our one real figure of stability has been our gracious Queen Elizabeth II.

### THE LATE PAULINE M. MCGIBBON

#### TRIBUTE

**Hon. Francis William Mahovlich:** Honourable senators, it is with great sadness that I inform you that the Honourable Pauline McGibbon, Ontario's twenty-second Lieutenant-Governor, passed away on December 14, 2001.

An inspiring role model, this remarkable woman was known for many firsts. In 1974, when she was appointed Lieutenant-Governor of Ontario, she was the first female representative of the Queen in Canada and the Commonwealth. She was the first female chancellor of the University of Toronto and the University of Guelph, the first female governor of Upper Canada College, the first female chairman of the board of trustees for the National Arts Centre, the first female president of the Canadian Conference of the Arts, and the first woman to serve as director on not one but four major Canadian corporations: IBM Canada, Mercedes-Benz Canada, George Weston Limited, and Imasco Limited.

While serving as Lieutenant-Governor from 1974 to 1980, she raised much public awareness of the vice-regal position, using it to promote the arts and, in the process, winning the hearts of Ontarians with her gracious style and personality. She had such a love for people that, in addition to using the funds allocated for entertainment, she would return most of her annual salary in order to host more functions open to the public. During her term, she hosted more than 1,000 receptions, gave nearly 500 speeches and had over 92,000 visitors to Queen's Park, more than any of her predecessors.

• (1440)

A champion of the arts, she established the annual Pauline McGibbon Honorary Award in Theatre Arts, and through her dedicated service on the boards of many arts organizations, she continued to enrich the cultural life of Ontario.

As a tribute to her outstanding dedication to public service, she was presented with numerous awards and honorary degrees. Some of her official honours include the Centennial Medal in 1967 and the Queen's Jubilee Medal in 1977. She was inducted into the Order of Canada in 1967 and promoted to Companion Member in 1980. In addition, she was inducted into the Order of Ontario in 1988 and received the 125th Anniversary of the Confederation of Canada Medal in 1992.

To quote Ontario Lieutenant-Governor Hilary Weston:

Pauline McGibbon opened the way for women, who now hold the majority of vice-regal positions in Canada. We will always remember her as a great lady — a proud Ontarian, who served her sovereign and province well.



## THE SENATE

### DEMOCRATIC REFORM—ELECTED SENATORS

**Hon. Gerry St. Germain:** Honourable senators, I wish to compliment colleagues in this place for their courage and conviction in releasing today "A Discussion Report on Democratic Reform of Parliament." In particular, I believe all senators should note the backgrounder, on page 7, pertaining to Senate reform.

Honourable senators, I have been an advocate for elected senators and for a reformed Senate since day one, as one who supported the elected Senate process in Meech Lake and later in Charlottetown. When I ran for my seat in the other place 20 years ago, one of my issues was Senate reform. I now restate my challenge to the Prime Minister to appoint only elected senators to this place. Again, if he were to guarantee to the people of Canada that he would only appoint elected senators to the Senate, then I would challenge all senators to push for an elected Senate. In so doing, I would challenge them to run for their respective regions, as I am prepared to do in British Columbia.

The Western provinces, in particular, have been advocating for fairer and better representation for many years. A couple of provinces have even adopted their own legislation to do so. I know that the present Leader of the Government in the Senate spoke to the immediate need for an elected Senate when she was opposition leader in the Manitoba legislature.

Honourable senators, Canadians eagerly await the commitment of the Prime Minister to respect the wishes of the people and the parliamentary representatives that serve here in Parliament.

## THE LATE PETER GZOWSKI, C.C.

### CHAMPION OF LITERACY

**Hon. Joyce Fairbairn:** Honourable senators, last week Canada lost one of its greatest champions: journalist, author, broadcaster Peter Gzowski. His gravelly voice, infectious laugh and challenging questions were finally silenced by the effects of a lifetime of smoking, and he lost the battle with emphysema.

What a send-off he received. His passing triggered an astounding cross-Canada flood of personal memories and affection, which flowed day after day last week, particularly on the CBC, his broadcasting home of over three decades.

I knew Peter for a long time. His consistency of daily influence in informing and entertaining Canadians is legend. In my book, however, his finest gift to the country he loved was his relentless advocacy for literacy — for all those millions of citizens who, unlike himself, could not claim an ability to read and write and use the magic of words to enhance their lives.

Underneath his sometimes gruff and even shy exterior, Peter cared passionately about finding ways to encourage and help others to share the joy of literacy, whether it was through his radio programs or his golf tournaments to raise funds for local

learning projects and organizations. Indeed, a lasting legacy will be the Peter Gzowski Invationals. Since 1986, with the help of friends, broadcasters, writers, actors, artists, entertainers, educators, sponsors and an army of literacy volunteers, a goal of \$1 million has now reached well over \$6 million with annual tournaments in every province and territory, including on the ice in the High Arctic. This was not just a game. It was a mighty cause for an issue that is desperately in need of attention and action at every level of our society, including government and this Parliament. Eventually, Mr. Gzowski's deteriorating health prevented him from playing the courses.

I have a vivid memory of a fairly recent PGI in Ottawa, when a storm rolled through and there was Peter, on the 18th green, soaked to the skin in an astounding purple shirt, with myself, also drenched, challenging players to pay out five bucks to put against the "Great One." The result was zero for Peter and mon dollars for our cause.

Peter and I shared many literacy platforms and cheered each other on. We were friends. He scolded me once for calling him an icon, but I was right.

Already I feel lonely without him, but I know that he is swinging his golf club up on a cloud, urging me to keep on marching. In his memory, literacy will remain my cause until the day I join him on that other course.

## NOVA SCOTIA

### FINANCING FOR SMALL BUSINESS— BANK OF MONTREAL PROGRAM

**Hon. Donald H. Oliver:** Honourable senators, the fallout from the attack of September 11 on the World Trade Center in New York has been felt around the world. My province of Nova Scotia is no exception. Our exporters have incurred increased delays and increased costs of moving goods over the border. There has been a downturn in retail sales, and small businesses and small business entrepreneurs have been under enormous pressure just to maintain positive cash flow in their businesses.

Honourable senators, there is a limit to what various levels of government, from municipal, provincial and federal, can do to assist small business. As a senator from Nova Scotia, I am always interested in finding ways in which our citizens and our businesses can be promoted so that they can compete with the best in the world. Very often our businesses — the lifeblood of the Canadian economy — are held back because most of the Toronto-based lending institutions are oblivious to our needs and activities down East.

It was refreshing, therefore, to read over the Christmas vacation that one of our largest financial institutions, the Bank of Montreal, started a new program, called Prime Rate Sale, to assist small business owners during these tough economic times. This is a rate sale program that enables small business customers to borrow amounts of between \$50,000 and \$250,000 for terms of up to two years at the all-time low prime rate of 3.75 per cent. They could either do that or take out a new small-business line of credit for up to \$50,000 at 3.75 per cent.



After I read that in the newspaper, I wondered if this would expressly exclude those business people from Atlantic Canada, so I did a search. I made an inquiry as to how Nova Scotia businesses were doing and learned that in Atlantic Canada, of 129 total applications processed as of the middle of January, all had been approved. This was most encouraging, but what about Nova Scotians? Those 129 applications represented \$16.6 million in financing for small businesses in Atlantic Canada. In Nova Scotia, 45 of those 129 applications were from our entrepreneurs, representing \$6 million.

Honourable senators, in troubled times I feel assured that this endeavour has really helped a great number of small businesses in Nova Scotia, and accordingly helped our provincial economy.

### PRINCE EDWARD ISLAND

#### NATIONAL JUNIOR WOMEN'S CURLING CHAMPIONS

**Hon. Catherine S. Callbeck:** Honourable senators, I am very proud to rise in this chamber today to pay tribute to a team of young women from my home province who have once again risen to the top of their sport. Prince Edward Island's Suzanne Gaudet rink, playing before a hometown crowd at Cahill Stadium in Summerside, won the National Junior Women's Curling Championship. This is the second straight year this team has won the national title.

Suzanne and her teammates are now preparing once again to take on the world at the World Junior Curling Championships in Kelowna, British Columbia, in late March. The team is comprised of lead Kelly Higgins, second Carol Webb, third Robyn MacPhee, skip Suzanne Gaudet and coach Paul Power. They are to be congratulated on their success.

Suzanne Gaudet has truly become a force to be reckoned with at the national and international levels. With her victory in Summerside, she became the first skip since 1978 to win back-to-back national junior women's titles. She and her teammates now look to repeat as world champions in Kelowna, following on last year's world title in Utah.

• (1450)

There has never been a repeat winner at the world championships, but I am confident that this great Prince Edward Island team will change that next month.

The city of Summerside and the hundreds of volunteers who worked tirelessly to put on the event should also be commended for hosting for a first-rate event.

It is estimated that the week-long championship resulted in \$1.5 million in spinoffs for the local economy, during a time of the year when tourism dollars are difficult to generate.

Honourable senators, again, congratulations to all the volunteers who staged such a successful event, and I wish the

best of luck to the Suzanne Gaudet rink at the upcoming world championship competition.

### WORLD COUNCIL OF CHURCHES

#### CELEBRATION OF CHRISTIANITY IN ARMENIA

**Hon. Lois M. Wilson:** Honourable senators, over Christmas I received the "News Bulletin of the World Council of Churches" with its account of the celebrations of 1700 years of Christianity in Armenia. A delegation from the World Council attended the September 21 to 23, 2001, celebrations of the Armenian Apostolic Church.

Christianity was proclaimed the state religion by the Armenian King Trdat III in the year 301, making Armenia the world's oldest Christian nation.

The celebrations culminated with a blessing ceremony and the consecration of a newly built cathedral in honour of Gregory the Illuminator. The presence of more than 22 representatives of different churches and religious organizations at the many worship services gave the participants a sense of belonging together across borders. The short news item was accompanied by a picture of Pope John Paul II and His Holiness Garegin II, who were, the caption stated, placing roses on a memorial for the victims of the 1915 Armenian Genocide. Thus, there was visible unity on this point from Protestants, Roman Catholics and Orthodox Communions at the highest levels, and worldwide.

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, there are only two minutes remaining for this item on the Orders of the Day. I will allow only one more senator on the list to speak.

[English]

### MS JEANNE MILNE

#### CONGRATULATIONS ON BECOMING FINALIST IN CADILLAC FAIRVIEW'S ARC AWARD COMPETITION

**Hon. Laurier L. LaPierre:** Honourable senators, it is with pleasure that I announce that Ms Jeanne Milne of Calgary, daughter of Senator Milne, is one of the four finalists in the Cadillac Fairview ARC Award Competition that recognizes highly creative innovators in Canadian retail. The award consists of a \$50,000 cash prize. Ms Milne is being recognized for the creative and innovative hardware store that she developed called, "The Art of Hardware," in Calgary. I am sure that honourable senators will join with me in congratulating Ms Milne and wishing her good luck. As well, let us congratulate Senator Milne for having such a creative daughter and Ms Milne of Calgary for having such a remarkable mother.

## ROUTINE PROCEEDINGS

### FIRST NATIONS SELF-GOVERNMENT RECOGNITION BILL

#### FIRST READING

**Hon. Gerry St. Germain** presented Bill S-38, declaring the Crown's recognition of self-government for the First Nations of Canada.

**The Hon. the Speaker** *pro tempore*: Honourable senators, when shall this bill be read the second time?

On motion of Senator St. Germain, bill placed on the Orders of the Day for second reading on Tuesday, February 12, 2002.

[Translation]

## QUESTION PERIOD

### ANSWER TO ORDER PAPER QUESTION TABLED

#### USE OF ANTIBIOTICS IN FARM ANIMALS

**Hon. Fernand Robichaud** (Deputy Leader of the Government) tabled in this chamber an answer to Question No. 18 raised on November 8, 2001, by Senator Kinsella.

[English]

## ORDERS OF THE DAY

### BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

#### SECOND READING—DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(Honourable Senator Finnerty).

**Hon. Isobel Finnerty**: Honourable senators, I have read with interest the continuing debate on Bill S-9. Senator Cools has presented a thorough and carefully documented history of the meaning of marriage. This is an impressive piece of research. I am grateful for the opportunity to have read it.

All around us, our traditional beliefs are challenged. What we were taught as youngsters is constantly being questioned. I am certain that many of us would find it much easier to survive if we could pause from time to time to absorb the never-ending changes.

Bill S-9 calls on the Parliament of Canada to freeze for all time the traditional Judeo-Christian definition of "marriage." The term "marriage," it is argued, should be exclusive property of two persons of the opposite sex who, one assumes, are in a loving and long-term relationship. Like most of you, honourable senators, it would be my predisposition to agree with the sentiments of Bill S-9.

Honourable senators, I am hopeful that all of you will ask yourselves this question: Will any Canadian be disadvantaged or greatly insecure if the traditional definition of "marriage" is not frozen in time?

It is important to have on the record the thorough research of Senator Cools and the supporting arguments of Senators Wiebe and Banks. Their speeches eloquently honour and trace the path that has led us here today. I am certain that there will be speeches against Bill S-9. I understand the frustrations of those who advocate a more inclusive or broader definition of "marriage." For the gay and lesbian community, the road to fairness, equity and inclusion has been long and rough.

Honourable senators, I can also understand that there would be some suspicion on the part of gays and lesbians regarding the motivations of those who take a view that traditions must not be altered. The more stridently traditional views are proclaimed, the more one suspects the motivations of those who express such underlying loyalty to tradition. Surely this is a natural, although sometimes unfair, reaction.

However, once we have heard all the arguments on both sides of this issue, I believe it will be time for us to move on. I do not believe that the path into the future is a quagmire of sin and evil simply because we do not choose to freeze in time, by way of legislative actions, definitions that we have cherished in the past. I believe that the future is resplendent with new challenges, new relationships and new definitions. Let us pursue this path armed with a generosity of spirit and determination to promote inclusion and not exclusion.

Honourable senators, is it scandalous to let the definition of "marriage" evolve? I think not. Is it sinful to let the definition of "marriage" evolve? I think not. Therefore, let us not put ourselves in the position of voting for this bill, and let us not put ourselves in the position of voting against this bill.

• (1500)

I believe that we should simply let Bill S-9 die on the Order Paper. In so doing, we may freely embrace the future with an open heart.

I truly hope, honourable senators, that everyone who wishes to speak on this debate has done so. The collective wisdom in this chamber will be to quietly let the bill die, neither having been approved nor defeated by the Senate of Canada.

**Hon. Anne C. Cools**: Honourable senators, I should like to ask Senator Finnerty a question.

**The Hon. the Speaker** *pro tempore*: Will Senator Finnerty accept a question?

**Senator Finnerty**: Yes.



**Senator Cools:** In the past two years the Senate had before it two bills, which passed, both of which upheld the precise definition of marriage as contained in Bill S-9. The names of the bills have been long forgotten by most people. They are now laws. One was Bill C-23, section 1.1 of the Modernization of Benefits and Obligations Act, and the other one was Bill S-4, section 5 of the Federal Law-Civil Law Harmonization Act, No. 1. Both of those bills upheld the government's position, the current state of the law, which is that marriage is a voluntary union between a man and a woman. Could Senator Finnerty tell us how she voted on both of those bills?

**Senator Finnerty:** I was not here at that time.

**Senator Cools:** One of those bills, Bill S-4, was before the Senate last April, I believe.

**Senator Finnerty:** Perhaps I was too new to have started doing my own research into them.

**Senator Cools:** Honourable senators, I shall put the following question to Senator Finnerty: How could the Senate adopt an alternative position to that which it had already adopted in previous legislation?

On motion of Senator LaPierre, debate adjourned.

## HEALTH

### INTERIM REPORT OF THE COMMISSION ON THE FUTURE OF HEALTH CARE IN CANADA TABLED

Leave having been given to revert to Tabling of Documents:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I am pleased to table, in both official languages, the Interim Report of the Commission on the Future of Health Care in Canada, by Commissioner Roy J. Romanow.

## ETHICS COUNSELLOR

### MOTION TO CHANGE PROCESS OF SELECTION— DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Oliver, seconded by the Honourable Senator DeWare:

That the Senate endorse and support the following policy from Liberal Red Book 1, which recommends the appointment of "an independent Ethics Counsellor to advise both public officials and lobbyists in the day-to-day application of the Code of Conduct for Public Officials. The Ethics Counsellor will be appointed after consultation with

the leaders of all parties in the House of Commons and report directly to Parliament.";

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with this decision of the Senate.—(*Honourable Senator Kinsella*).

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, this motion speaks to a matter of not only long-standing interest but also of current interest, affecting the role of an independent ethics counsellor.

Honourable senators, as the inquiry by Senator Oliver started, we had expressed a number of concerns about the fact that the Ethics Counsellor in place was not independent. This has been a subject of fairly broad debate across Canada as the government seems to be unmoved by the criticisms of a fairly broad spectrum of Canadians.

Some of us were of the view that the government did not care about this, and that there are only so many things the opposition could focus on. We were tempted to let the matter drop. However, as each government scandal and alleged wrongdoing by ministers of this government occurs, it becomes important in the view of Canadians to have an ethics counsellor who is a true ethics counsellor, independent of the Prime Minister and the executive. In other words, an ethics counsellor who is an Officer of Parliament.

The most recent example of the executive's interference with the work of the Ethics Counsellor occurred within the last few days. Howard Wilson, the Ethics Counsellor, has admitted that he approached the Prime Minister and asked whether he should continue his investigation into recent alleged election offences committed by members of the House of Commons. In particular, while Maria Minna was a minister of the Crown, Mr. Wilson is quoted as saying, after speaking with the Prime Minister, "She is no longer in the cabinet, and I need not continue." Therefore, the Ethics Counsellor stopped his inquiry.

As the leader of the Progressive Conservative Party said yesterday, it is a joke to pretend there is an Ethics Counsellor when his mandate is so limited. It is bad enough that he only reports to the Prime Minister, his boss, but it is even worse that the code covers only a limited number of persons.

Honourable senators, the groundwork for a code of ethics and an independent ethics counsellor was laid by the report of a special joint committee of this house and the other place, jointly chaired by the present Speaker of the House of Commons and our colleague Senator Donald Oliver. It is my belief that the public's disillusionment with public life in Canada is due in large measure to the low esteem in which they hold politicians. We now have the opportunity to work towards creating an independent ethics counsellor appointed by, and responsible to, Parliament. This is absolutely necessary as part of the process of rehabilitating the role and image of parliamentarians as people who work to serve all Canadians.



I feel that all honourable members of this house should reflect very carefully upon the proposition contained in this motion and lend support to it. Given the fact that our colleagues opposite can be comforted by the fact that it was a policy from their own Red Book 1 that had recommended the appointment of an independent ethics counsellor to advise both public officials and lobbyists in the day-to-day application of the code of conduct for public officials, it seems to me that we have source or

background documents in the political formulations of members of both sides of this house that would lend support to this proposition, and I would hope it would be embraced by all members of the Senate.

On motion of Senator Milne, debate adjourned.

The Senate adjourned until Thursday, February 7, 2002, at 1:30 p.m.

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OFFICIAL REPORT  
(HANSARD)

Thursday, February 7, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, February 7, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### THE LATE HONOURABLE HEATH MACQUARRIE

#### TRIBUTES

#### **Hon. John Lynch-Staunton (Leader of the Opposition):**

Honourable senators, I have always regretted that I never got to know Heath Macquarrie well until I came to this place just a few years before he retired from it. To say that he was by then a legendary figure in my party is something he did not like to hear. Certainly, he was one of its leading figures, blessed as he was with an intellectual honesty all too rare in the world of politics.

To support that, I want to quote his own words from a book he wrote, appropriately titled *Red Tory Blues*. In it, one finds a confession that I believe reveals the intellectual rigour that dominated his political career. He wrote:

I had emotionally and intellectually prepared myself to vote against the War Measures Act in the House of Commons. It is not the custom to take votes in caucus but my impression was that a substantial, if not overwhelming, majority were ready to vote against it. But with the deepening crisis, and the increasing assaults on our leaders, we felt overwhelmed by a sea of tumultuous and frightening events. I was no recent victim of insomnia, but on the night before the vote I slept not a wink. I was not troubled by the thought of being in a minority as I now read the party's changing attitude. I had been in such situations before. Nor was I unprepared to be criticized and misunderstood. That too was not unfamiliar to me. But what was the right thing to do? It seemed a very personal matter. I always felt there was something grandiose if not self-righteous about people who too readily display their conscience. But on the War Measures Act I felt that all I had learned and believed in over the years was somehow being tried and tested. My agonized uncertainty did not end until the vote was called. In the roll call I stood with all members of my party and supported the War Measures Act knowing in my head and heart that it was an improper and highly ignoble thing to do. In my thirty-four years on Parliament Hill, I have doubtless done many foolish things and said many more. But the only occasion on which I still consider I was fundamentally wrong was on this vote. The only worthy excuse I could advance was that I had avoided a rift in the caucus. Stanfield was sufficiently under attack without adding to his problems the charge of having a fractured caucus.

Looking back on those disturbing times I see few heroes.... Certainly I wasn't one.

This special trait, added to his oratorical skills, his warm personality, combined with his great concern for the welfare of his constituents, allowed him to be elected eight times to the

House of Commons, a remarkable achievement by itself, but made even more remarkable as the PCs, during many of those years, did not always show the solidarity the public expects from a political party.

Heath was summoned to the Senate by the Right Honourable Joe Clark in 1979 and remained an active member of it until his retirement in 1994. His loyalty to the party during the Mulroney years was often tested but never broken. I recall once in caucus he made an impassioned speech against a particular piece of legislation and ended by saying, "You know, a lot of people think I have a prominent nose because of my enjoyment of a certain beverage. Well, that's all nonsense. I got it that way by having to hold it so often while voting for some of Mulroney's bills."

Others who had the good fortune to have known him longer and better than I all have their own anecdotes about this fine man and, hopefully, we may hear some choice ones today.

Certainly, the lasting memory I have of Heath is his constant interest in individual colleagues and their endeavours and projects. Even after retirement, he would occasionally drop a line of encouragement and support on a controversial position, and eloquently write long letters on topics of the day, always erudite, always thoughtful, as he did so with a forceful mind and a clear pen.

Honourable senators, it was a joy and a privilege to have him as an associate and as a friend.

**Hon. B. Alasdair Graham:** Honourable senators, over the past few years, Canada has lost a number of its finest patriots. I think of the Right Honourable Pierre Elliott Trudeau, the remarkable spirit of Mordecai Richler, and now the inimitable Peter Gzowski, whose death has unleashed a tremendous spirit of national sadness and, I might add, a kind of groundswell of refusal to let him go.

However, no matter what their background or mission in life, all of these gentlemen were uniquely Canadian. They challenged us to examine our thoughts and values and identities as Canadians, and their ideals and dreams inspired us to believe in the magic of this special community as we never had before.

Throughout his wonderful life, Senator Heath Macquarrie brought that same kind of gentle and tolerant persuasion and patriotism, that same kind of caring, compassionate soul, that same kind of intellectual depth and continuing joy in the process of learning to the hearts of the many lives he touched, whether as parliamentarian or academic, as author or social activist and critic, or delegate to the United Nations General Assembly, where I had the delightful privilege of serving as one of his colleagues. On that occasion, he was mildly upset because the particular brand of that beverage to which Senator Lynch-Staunton referred was not so readily available in New York. Whether he was strolling the streets of his beloved Prince Edward Island and chatting with everyone he met or receiving the Grand Cordon Order of Al-Istiqlal from the Hashemite

Kingdom of Jordan, Senator Macquarrie was always the same to everyone.

• (1340)

While many of us recall the brilliant mind and the powerful orator in this chamber, I remember him best for his fundamental decency and humanity — that mischievous smile and twinkle in his eye that charmed and indeed melted everyone with whom he came in contact.

He once reviewed a book I had authored called *Seeds of Freedom*. While generally giving the effort his mild approval, he said he grew slightly weary of the expression “a level playing field” — this from a Red Tory whose credo during his entire public life was a level playing field for everyone, no matter where they lived.

Senator Macquarrie’s fundamental decency was lodged solidly in the foundations of all of his work, no matter how analytical or research-oriented. I recall that Senator Macquarrie once remarked to me that he believed our eighth Prime Minister, the Right Honourable Robert Borden, was the chief architect of Canadian independence. Earlier this week, I sought out Senator Macquarrie’s introduction to the Borden Memoirs to find out just why he thought so. I found not just the disciplined, rigorous mind of the first-rate historian at work, but the soul of a man of honour whose search for historical accuracy never interfered with his effective use of the broad brush of history to establish the parameters of our identity and the adventure of our great national dream.

Senator Macquarrie was 82 when he died. He had been educated by some of the giants of Canadian academia, including the historian Arthur Lower. Senator Macquarrie would often quote him fondly as he maintained his annual vigil to ensure that the Union Jack flag was flying on Parliament Hill every December 11, the anniversary of the adoption of the Statute of Westminster in 1931. Quoting Lower, he would say that if Canada had an independence day, it would and should be December 11.

Heath Macquarrie was a man of conscience, a renowned Red Tory who believed that, above all, the principal objective of government was the well-being of people. He argued this case with passion and great purposefulness, but always returned to the roots of this great country, showing through careful historical construct that Canada was always meant to be a federation of the heart.

Never, I believe, has the study of our history and an understanding of our values as Canadians been as important to our national psyche as in this post-September 11 world. Today, as we reflect upon the wonderful life of Senator Macquarrie and all the courageous patriots who have worked long days and nights to lay the foundations for a tolerant, compassionate and freedom-loving Canada, we remember the magic in our hearts.

[ Senator Graham ]

We are reminded of how hard we must work to ensure that the generations yet to come will treasure those ideals forever, because that magic is timeless.

Honourable senators, Senator Macquarrie has done more than his part to achieve those ideals. To his wife, Isabel, and all the members of his family, we extend an expression of appreciation for his life and our sorrow that he is no longer with us.

**Hon. Lowell Murray:** Honourable senators, let me begin at the end of Heath Macquarrie’s life and the manner of his leaving us. In the early 1990s, he was diagnosed with prostate cancer. He underwent treatment. For the next eight or ten years, his condition alternated between recovery and recurrence, the cycle all too familiar to the all too many who have endured it.

His spirit remained high, however. It was his habit to favour me, and I suppose others, with copies of his extensive correspondence. In January of the year 2000, he wrote:

At my eightieth birthday party in Charlottetown in September, a dear friend asked me about my health. I replied in more detail than needed or expected. I have had High Blood Pressure for over 50 years, diabetes for over 25, Prostate cancer about 10, Hiatal hernia for many years, have also had a TIA stroke, and am an insomniac...But thank God I feel pretty good every day.

In May of 2000, he wrote our Speaker, Senator Molgat:

I am living on borrowed time. After six or seven years holding prostate cancer in control the prognosis is not very good. I think I’ll be able to have the summer in my beloved P.E.I. but it is likely to be my last.

Honourable senators, life is a mystery. Gil Molgat, as we know, was brought down by a sudden stroke seven months later. Heath Macquarrie was to live two more summers.

Last fall, it was clear that further treatment would be unavailing. The cycle ran out. He arranged for palliative care at home in Ottawa. In September, he wrote:

I am relieved to have this situation for what I must call my final days and which cannot be very long... But we shall try to make the best of things as we recall with gratitude livelier days of the past.

His last days, weeks and months are remarkable because they coincided so much with his entire adult life. As long as he could do so, he wrote his column for *The Hill Times* and for the *Island papers*. He stayed in touch with his eclectic circle of friends. Discussion at his bedside was of Prince Edward Island politics, the Senate, his international interests, especially the Middle East, and the Commonwealth Caribbean — “the Arabs and the Caribs,” as he used to say. Almost to the very end, he remained fully engaged.



Heath Macquarrie's careers as teacher, scholar, writer and politician overlapped. He was somewhat unusual among Canadian parliamentarians in that he also made a significant contribution to the literature of Canadian politics. He edited and wrote the introduction to the diaries of Sir Robert Borden for the Carleton Library Series, as Senator Graham just mentioned. He authored *The Conservative Party*, published by McClelland and Stewart in 1965, and his own political memoir, *Red Tory Blues*, published by the University of Toronto Press in 1992. He was also co-author of *Canada and the Third World*, published by Macmillan Canada in 1976.

Is it possible for a person to be a strong Islander, a Canadian nationalist and an ardent internationalist? Macquarrie was all of those and a proud Scot as well. He worried publicly about aggressive provincialism in our country, but if anyone dared question the constitutional prerogatives of the great province of Prince Edward Island, Heath Macquarrie would soon set them straight.

He was elected eight times to the House of Commons and served there for 22 years. He did not attain cabinet rank because after his first six years in Mr. Diefenbaker's caucus, there was no Tory cabinet to belong to. He loved this upper house where he sat for 15 years. He loved the opportunities the Senate provided to devote himself more fully to his policy interests and to speak more freely, as he certainly did, on free trade, on the fixed link, to name just two issues on which he did not share my enthusiasm or that of other colleagues.

Later, accepting what had been done, he compared these issues to one of the great lost causes of our Scottish forbearers. He wrote:

While Bonnie Prince Charles has a romantic appeal for many Caledonians, the return of the Stuarts has no place in the thinking of even the most ardent Scottish nationalists.

Notwithstanding his reservations about free trade and the fixed link, "we are now presented with both," he said, "and must endure the reality of existence."

For his friends, among whom I have been proud to be counted for more than 40 years, the "reality of existence" will be much less interesting, less stimulating and certainly less convivial without him. We will greatly miss him. He has been an adornment to public life in this country and to both Houses of our Parliament.

• (1350)

**Hon. Catherine S. Callbeck:** Honourable senators, I was saddened recently, as were many Prince Edward Islanders, to learn of the passing of one of my home province's greatest statesmen. A former senator and a long-time member of Parliament, Heath Macquarrie was a legend in Prince Edward Island. He was a man greatly admired for his skills as an orator, for his abilities as a politician, and his knowledge and appreciation of issues far beyond our national borders. He was,

perhaps, most treasured as a sincere and genuine Islander whose heart never left his small home community of Victoria. Heath's friends and neighbours in that community have reflected in the last two weeks about how they would often see him strolling the streets of their small seaside village, fully adorned in his prized kilt and trademark tam.

Honourable senators, my home province has had its fair share of outstanding politicians through the years, but few reached the level of this former senator, both in terms of accomplishment and length of time served. As has been said, he was first elected as a member of Parliament in 1957 and re-elected seven times. He followed his lengthy career as a member of Parliament with an equally distinguished period of 15 years in the Senate. As I know many of my colleagues will attest, his command of the language often resulted in breathtaking oratories, especially captivating in style and in content.

Prior to his impressive career in public life, Heath was an academic of some renown, educated at Prince of Wales College, the University of Manitoba, the University of British Columbia and McGill University. He lectured at a number of universities in economics, political science and international relations.

In short, honourable colleagues, retired Senator Macquarrie was an outstanding Islander and a great Canadian. We are all much better for the time he spent in the service of our country. I know that I join all honourable senators in extending heartfelt condolences to his wife, Isabel, and to his children, Heather, Flora and Iain.

**Hon. Marcel Prud'homme:** Honourable senators, 32 years ago today, Senator Macquarrie and I had the great honour of attending a meeting in Egypt. The title of the meeting was Parliamentarians for Peace in the Middle East. We met with President Nasser. Eventually, Senator Macquarrie met extensively with President Sadat and Vice-President Mubarak, as I did, but at different times.

I would urge honourable senators to read the article in *The Hill Times* of Monday, January 7, 2002, under the pen of Mr. Bhupinder Liddar, the editor of the newspaper called *The Diplomat*.

In 1974, Mr. Trudeau gave me the great honour of being a full-time delegate at the United Nations for three months. It was the most tumultuous session that ever took place under the presidency of Algerian President Bouteflika, who disappeared and then came back as President of Algeria. The year that Chairman Arafat was invited by the United Nations, sadly, he was boycotted by the Western World, with the exception of myself. I stood up and did as the United Nations wanted us to do. I was never blamed by Mr. Trudeau, who was more than happy to leave me there. I always took that as an unwritten sign of approval. A lot of air hit the fan in the Liberal national caucus after such a gesture, but the only telephone call I received was from former Senator Macquarrie, as a sign of encouragement to keep defending the most unpopular causes of that time — and I am talking about 1974.

I have hundreds of handwritten pages from former Senator Heath Macquarrie. Senator Murray knows this better than I, but Senator Macquarrie did not like to use typewritten text — he liked to send written notes by fax. It took me some time to read them.

Once one came to know Senator Macquarrie, one realized that he was a man full of wisdom. One of his greatest assets to Parliament was his unbelievable understanding and interest in world affairs. He was one of the most prominent senators, along with Senator Murray and another senator — whose name I prefer not to mention at this time because he is still here. He worked on a famous report on Canada's relationship with the Middle East in the very early 1980s under the very able chairmanship of then Senator van Roggen, who honoured me by giving me the ninth draft, which senators shall see someday, showing the difficulties the members of that committee encountered. They agonized over the drafting of a report that was eventually and viciously denounced by two senators — one who left and one who is still here.

Senator Macquarrie never played footsie with his opinion on Middle East affairs, world affairs and this major issue that concerns us all. That was a major concern of his and of mine, even though I was much younger. Everything that has been done from 1970 up to now is about to hound us. Up to the very last week of his life, he kept talking about the forbidden subject, that is, Middle East policy and the understanding of it. It played a major role in his life because he was a mentor to many people.

Heath Macquarrie was a most knowledgeable person. He had the best solutions, but no one wanted to listen. We created — and I was honoured then and I am still honoured — the Canada-Arab parliamentary world, which was reinstituted three days ago under the chairmanship of Mr. Assadourian in the House of Commons. Heath and I were co-chairs who worked under great difficulty. He always said, "Of all the honours that I may have received, the one that I cherish the most is that position as honorary chair of the Canada-Arab world because it is so difficult to stand up for what one thinks is right." He never played footsie in his criticism of Arab leaders when the time required, nor in his multiple conversations with the various leaders that he met, such as Menachem Begin, Shimon Peres, Ben Gurion and Abba Eban, whom he considered to be one of the great people of our time.

• (1400)

I was waiting to see if people would touch upon something that had been immensely major in his life. I regret, as he did up to the very last of his weeks, that colleagues here do not take more interest in a very explosive issue. That is his view, and people are still playing games. Senator Macquarrie stood for what he thought was right. He was a man of equilibrium. He would stop, or call or write me when he felt I had gone too far.

To young people who have interests in international affairs, if I were to suggest a mentor for courage in difficult times, I would mention Senator Macquarrie as one of the first.

[ Senator Prud'homme ]

Much has been said about how joyful and extraordinarily well informed he was, and I do not wish to pay too much homage, following Senator Lapointe's urgings. However, I think we in the Senate should not be afraid to stand up and take some of our precious time to pay tribute to a great man. I offer our most sincere condolences to his wife, Isabel, their three children Heather, Flora and Iain, and their seven grandchildren.

He is waiting there in P.E.I., because one of his last wishes was to ask people to go to P.E.I., in a place that he loved so much. He swam in Victoria Harbour, where his ashes will be thrown. It is a reminder of his love for his province and his belief in justice for all, without exception. Perhaps it was his hope that the ashes will cross the ocean and bring some sense to people who are putting peace in the world in great danger.

I, personally, will miss Senator Macquarrie greatly, as a mentor, a knowledgeable person, a historian and a friend. I am sure many other people will miss his friendship that he was so happy to share with those around him.

My colleague and friend Senator Roche will not be speaking. It is risky because I may have gone too far, but I ask him to join in what I just said about Senator Macquarrie. I have a positive response, and I thank him for allowing me to add his name to what I just said about a dearly departed friend.

His spirit will remain as long as some of his friends are still around.

[Translation]

**Hon. Pierre De Bané:** Honourable senators, I should like to join my colleagues in paying tribute to the late Heath Macquarrie. It is obvious that this great man, with a multitude of careers — historian, intellectual, professor, parliamentarian and worthy representative of Prince Edward Island and the Maritimes — was a great Canadian.

I will focus today, if I may, on one aspect of the man that particularly affected me, because of my origins: how he suffered to see the sufferings of the Palestinian people, their tragic lives and the absolutely pitiful conditions under which they live. It is hard to overestimate their trials and tribulations.

How did this great Canadian, born on Prince Edward Island, come to be interested in the drama being lived by these millions of people and their tragic conditions? This further testifies to the greatness of Senator Macquarrie.

In the Middle East, whether it is an Israeli family or a Palestinian family that tragically loses a family member, the suffering is equivalent, equally intense. Yet when one looks at the general situation of these two peoples, the Palestinians are the ones living in abysmal misery.

Senator Macquarrie became a spokesman for the Palestinian people. He defended them with all his great heart and all his intellectual abilities.



I would like Mrs. Macquarrie, as well as her children and grandchildren, to know, today, that I will truly cherish the memory of this great Canadian parliamentarian, to whom we all owe a debt of gratitude.

[English]

[Later]

**Hon. Anne C. Cools:** Honourable senators, I shall be brief. I should like to join colleagues on both sides in paying tribute to our late colleague former Senator Heath Macquarrie. We all remember Senator Macquarrie with great esteem and respect for his impressive study and knowledge of the Middle East, its people and its circumstances. His understanding of that part of the world was indeed impressive. His defence of the Palestinian people was noble. I sincerely believe that Senator Macquarrie will be remembered as a faithful friend to Palestinian, Arab, Caribbean, colonial and former colonial peoples alike.

Honourable senators, I join with all senators in this house today in offering my condolences and best wishes for the future to his wife and his family.

## THE LATE HONOURABLE MELVIN PERRY POIRIER

### TRIBUTES

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to pay tribute to a former colleague, Senator Melvin Perry, who sometimes liked to call himself Perry Poirier. He served the people of Prince Edward Island with great dedication, both at home and here in the Senate chamber. Senator Perry was an educator by profession, and his career in education spanned 34 years, during which he served as principal of St. Louis School for 15 years.

[Translation]

Senator Perry had close ties to the Acadian community in his native province. He was a contributor to the French-language newspaper *La Voix Acadienne* and with l'Entente Canada-communauté.

He showed great dedication to his community of St. Louis. Among other activities, he sat on the board of directors of the St. Louis history club and the St. Louis community school. In the Senate, Senator Perry eloquently gave his opinion on several bills. He played a major role during consideration of the clarity bill. He was a member of many Senate committees, including the Standing Senate Committee on Fisheries.

[English]

We would like to offer our sincere condolences to his wife, Anita, and their children and grandchildren.

**Hon. Eileen Rossiter:** Honourable senators, I rise to say a few words in tribute to our departed friend Senator Perry Poirier. His loss was deeply felt in the area in which he lived, which was Palmer's Road in the western part of the Island. I am sure that his true legacy is the influence he had in shaping the minds of the thousands of students who went to his classes.

His great love for his francophone community, official bilingualism, and his pride in his Acadian ancestry are well known to all who met him.

His appointment to the Senate lasted slightly longer than a year, cut prematurely short by the terms of the Constitution Act. The broad range of his interests was reflected in the fact that he sat on no fewer than seven committees. How he could bring himself up to speed on short notice on such a wide range of issues is a mystery. I am sure the whips on both sides of this house would be more than happy to have many more like him.

• (1410)

During his time in the chamber, we flew back and forth to P.E.I. at different times. That was when I came to know former Senator Perry and his wife, Anita. I extend my sincere condolences to Anita, their children and their grandchildren.

**Hon. Catherine S. Callbeck:** Honourable senators, many in my home province were saddened recently to learn of the passing of one of our former colleagues, Melvin Perry. Melvin came to this historic chamber carrying a heavy responsibility as he was the first person of Acadian descent from Prince Edward Island to be appointed to the Senate in the century.

He took that obligation very seriously. During his short term here, he served on five Senate committees and two joint committees. On behalf of the fishers and farmers of Prince Edward Island, he worked extremely hard on both the Fisheries Committee and the Agriculture and Forestry Committee.

In his community, Melvin will always be remembered as a first-class educator and as a steadfast promoter of his Acadian culture. In fact, there were times when he was able to combine the two, as evidenced by his involvement in the establishment of the French Immersion Program in Prince Edward Island schools. The late senator was an educator for 34 years, 15 of which he served as principal of St. Louis elementary school.

As a proud Acadian, he served on many committees and volunteered with a number of organizations that promoted and enhanced the Acadian culture. He was a member of the St. Thomas Aquinas Society, and he worked hard to found the French-language newspaper in our province. A man proud of his culture, a neighbour proud of his community, a teacher proud of his vocation — Melvin Perry was all of these things. He was also a man who loved his family.

I want to extend my deepest sympathy to Melvin's wife, Anita, their six children and their families.



[Translation]

**Hon. Joan Fraser:** Honourable senators, I should like to add a few words to the tributes paid to Senator Perry Poirier. Like all of us, I did not have enough time to get to know him well, but I did get to know him a little, because his seat was close to mine.

I will remember him as a warm, generous and gentle person, who was always ready to help and be there when he was needed. I called upon him on a number of occasions and he never hesitated one second to help me. He was very proud, and rightly so, to be the first Acadian senator from Prince Edward Island. His family must know that we too were very pleased to have him with us.

Honourable senators, I join others who have expressed their sympathy to his family.

[English]

### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Before I call for Senators' Statements, I would draw your attention to the presence in our gallery of Dr. Adalbert Th. Jegyud, Physician and Orthodox Catholic Chaplain at the Mount Sinai Hospital Centre, and a guest of the Honourable Senator Watt.

Welcome to the Senate.

**Hon. Senators:** Hear, hear!

## SENATORS' STATEMENTS

### NOBEL PRIZE

ONE HUNDREDTH ANNIVERSARY—STATEMENT ENDORSED BY LAUREATES ON STATE OF WORLD'S POOR AND DISENFRANCHISED

**Hon. Donald H. Oliver:** Honourable senators, this is the 100th anniversary of the awarding of the Nobel Prize. While giving substantial consideration to the aftermath of September 11, I was interested to read a statement endorsed by many of the world's living Nobel Laureates. In a brief, succinct and terse statement by the brainchild of Canada's John Polanyi, himself a Nobel Laureate, they stated that the security of the world now hangs on environmental and social reform. Here we have 100 people who rose to the pinnacle of their careers agreeing that the most profound danger to world peace will not stem from irrational acts of states or individuals, but from legitimate demands of the world's dispossessed.

It was their concerted view that to stop what threatens the very essence of the planet, we must persist in the quest for united action to counter both global warming and a weaponized world. In other words, those twin goals will constitute vital components

of stability as we all move to a wider degree of social justice that alone gives hope of peace.

Honourable senators, I call your attention to this important article because environmental and social reforms and the warning of those 100 Nobel Laureates should be kept in the minds of members of our standing committees when they review government legislation and conduct special studies. In that way, our recommendations can serve as a beacon to the world. The laureates said that most of the poor and disenfranchised in the world live a marginalized existence in equatorial climates and that global warming will affect their fragile ecologies more than it will affect ours.

Honourable senators, their statement concluded with the following: "To survive in the world we have transformed, we must learn to think in a new way. As never before, the future of each depends on the good of all."

### THE LATE PETER GZOWSKI, C.C.

#### TRIBUTE

**Hon. Jeremiah S. Grafstein:** Honourable senators, I rise in tribute to the late, unforgettable, Peter Gzowski. My first fiery encounter with him was in 1956 on the campus of the University of Toronto. I was a law student active on many fronts, and Peter was the radical editor of *Varsity*, the University of Toronto's excellent and well-respected daily newspaper.

Peter was irascible, opinionated and brilliant. Rarely was he easy to convince. We clashed frequently and held heated debates in his office and on campus about almost everything. Yet we kept in touch. We shared a wide circle of friends and business partners. Later, in the 1960s when I was practising law in Toronto, he came to me with a mutual friend, Ken Lefolli, an equally inspired Canadian writer, editor and publisher with a magnificent idea to start up a new weekly magazine to be called "This City." The magazine was to focus with an elegant inner eye on the cultural and intellectual life of the city, the prism that the national media had neglected. The thesis was valid then and it is valid now. We agreed to combine to float the idea but failed to gain economic support or enthusiasm. This preoccupation with the inner city manifests itself today in the electronic and print media but, at the time, it was revolutionary.

• (1420)

Peter and I shared a love of the printed word, but for me, Peter's great talent was his insatiable curiosity about the undiscovered Canada — his unquenchable curiosity about the unheralded Canada. His curiosity forced Canadians to become curious about themselves. For that, Canadians remain eternally in his debt, and he will not be readily forgotten. He will be missed as the ultimate Canadian catalyst. In a word, he was excellent. He relished and practised excellence. What better legacy can a man bequeath to his country than an unrequited curiosity and love of country.

## LIBRARY OF PARLIAMENT

## ELEVENTH REPORT

## CEREMONY LAUNCHING RENOVATION PROJECT

**Hon. Laurier L. LaPierre:** Honourable senators, on Monday, I had the pleasure of attending the special ceremony given by the Honourable Don Boudria to mark the beginning of the renovation project of the Library of Parliament. At that time, our Speaker, the Honourable Daniel Hays, gave a marvellous tribute to the library and to everyone who has been using it since time immemorial. It is the place where Sir Wilfrid Laurier and Edward Blake conversed about Canadian affairs in Latin. How civilization has passed us by.

Consequently, I should like to quote the magnificent words His Honour used in order to mark this important event, which was the closing of the big doors. The library will be closed for the next four years. One day, when Senator Day is back, he will tell me how I can, without offending any rule or anyone, put this speech in the record of the Senate, but I will have to wait for my mentor to tell me how to do it.

Speaker Hays said:

[Translation]

The Library of Parliament is closely linked to the history of our country. It has survived fires and floods, serving Canadian parliamentarians with great distinction for 126 years. Today, bearing the scars of this long and noble struggle, it is taking a well-deserved rest to be rejuvenated and restored to its former splendour.

I myself contemplate its imminent closing with a touch of sadness. But I am glad that the government is devoting the time, effort and resources necessary to ensure that, when our library again opens its doors in 2004, it will be better than ever and ready to welcome us back, here in this unique and splendid setting.

[English]

## ROUTINE PROCEEDINGS

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

## ELEVENTH REPORT OF COMMITTEE PRESENTED

**Hon. Richard H. Kroft,** Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, February 7, 2002

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

Your Committee recommends the adoption of Supplementary Estimates of \$6,165,000 for the fiscal year 2001-2002.

This increase to the Statutory Appropriation results from the application of the provisions of Bill C-28.

Respectfully submitted

RICHARD H. KROFT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

**Senator Kroft:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. John Lynch-Staunton (Leader of the Opposition):** No.

**The Hon. the Speaker:** Leave is not granted. Does the honourable senator wish to rephrase his motion?

**Senator Kroft:** In view of that, honourable senators, I would move that the report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to.

[Translation]

## OFFICIAL LANGUAGES

## SIXTH REPORT OF COMMITTEE TABLED

**Hon. Shirley Maheu:** Honourable senators, I have the honour to table the sixth report of the Standing Joint Committee on Official Languages concerning a resolution that the federal government provide funding to New Brunswick for the translation of municipal bylaws.

[English]

## CANADIAN COMMERCIAL CORPORATION ACT

## BILL TO AMEND—REPORT OF COMMITTEE

**Hon. David Tkachuk,** Deputy Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:



Thursday, February 7, 2002

The Standing Senate Committee on Banking, Trade and Commerce has the honour to present its

### THIRTEENTH REPORT

Your Committee, to which was referred Bill C-41, An Act to amend the Canadian Commercial Corporation Act, has, in obedience to the Order of Reference of Friday, December 14, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LEO KOLBER  
*Chairman*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Tkachuk, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

### SCRUTINY OF REGULATIONS

#### FIFTH REPORT OF JOINT COMMITTEE TABLED

**Hon. Céline Hervieux-Payette:** Honourable senators, I have the honour to table the fifth report of the Standing Joint Committee for the Scrutiny of Regulations dealing with the assessor's rules of procedure for certain pieces of legislation.

[English]

### THE LATE JUSTICE WILLARD ZEBEDEE ESTEY, C.C., Q.C.

#### NOTICE OF INQUIRY

**Hon. Jeremiah S. Grafstein:** Honourable senators, I give notice that on Tuesday, February 19, 2002, I will call the attention of the Senate to the life and times of the late Honourable Willard Zebedee (Bud) Estey, C.C., Q.C., B.A., LL.B., LL.M., LL.B.

## QUESTION PERIOD

### NATIONAL DEFENCE

WAR IN AFGHANISTAN—ASSURANCE THAT PRISONERS TURNED OVER TO UNITED STATES NOT FACE CAPITAL PUNISHMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my question is directed to the Leader of the Government in the Senate. I ask the minister to describe for this house the regime that is in place to govern the passage of prisoners in the war against terrorism from Canadian authorities

[ Senator Tkachuk ]

to the authorities of other jurisdictions, in particular, with reference to assurances being sought before any turnover is made that the receiving jurisdiction will not seek the death penalty, consistent with Canadian values.

• (1430)

### Hon. Sharon Carstairs (Leader of the Government)

Honourable senators, I thank Senator Kinsella for his question. As he knows, there are international legal agreements in place that govern the transfer of detainees. Should the detainees be arrested by Canadians, they will be transferred in accordance with those obligations. The honourable senator knows as well that international law, including the Geneva Convention, generally does not preclude the use of the death penalty. However, they do provide legal safeguards for the accused and they do preclude the use of the death penalty in specific cases with respect to minors and pregnant women.

**Senator Kinsella:** Honourable senators, is the minister advising this house that Canadian domestic law will be overridden by any international instrument concerning the potential imposition of the death penalty?

**Senator Carstairs:** As I indicated to the honourable senator on Tuesday, I will seek further clarification. However, to my knowledge today, because we are dealing with a situation that takes place outside of Canada, it is not domestic law that pertains but the international legal requirements.

**Senator Kinsella:** Does the honourable minister not agree that members of the Canadian Armed Forces are agents of Canada and therefore would be subject to the National Defence Act of Canada? In regard to the law affecting the extradition of someone held by the Crown of Canada to a jurisdiction that imposes the death penalty, does she not agree that Canada has passed legislation stating that this cannot happen? Is it the policy of the Government of Canada that where the death penalty can be imposed, the Canadian value of not accepting that penalty will be the value that will be applied?

**Senator Carstairs:** As the honourable senator knows, the Canadian Armed Forces personnel who are in fact detaining individuals are not located in Canada, so domestic law does not apply. It is international law agreements that apply in this case. International law agreements — the most famous being the Geneva Conventions — allow for this transfer. They also indicate the way in which that transfer should take place. As I indicated earlier, they do not preclude the use of the death penalty.

## FINANCE

### INVESTMENT MARKET—CHANGE IN LIMIT OF FOREIGN OWNERSHIP

**Hon. David Tkachuk:** Honourable senators, my question is directed to the Leader of the Government in the Senate. The Prime Minister of Canada, the Governor of the Bank of Canada and the Minister of Finance have in the last number of weeks embarked on a promotion of Canada to foreign investors because of the drop in our Canadian dollar. They have been trying to convince New York investment houses and the world markets that if only they knew what we know in Canada, they would be buying our dollar.



Meanwhile, the investment house of Merrill Lynch has said that part of the reason for the fall of the dollar this past year — although not the whole reason — is that the government lifted restrictions on RSP foreign investment holdings to 30 per cent from 20 per cent, and it seems that Canadians are voting with their dollars and investing in everything but Canada.

Would the leader explain to this house why Canadian investors are doing the same as foreign investors? It seems that investors from Canada and the rest of the world are contradicting what the Minister of Finance and the Prime Minister are trying to say.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I must say that I find the contradictions from the honourable senator on the other side a little difficult to deal with. On Tuesday, I thought he recommended that we should lift this investment policy entirely and that we should have 100 per cent open investment by Canadians in foreign companies. Now he seems to be saying that perhaps we have gone too far with a limit of 30 per cent. Perhaps the Honourable Senator Tkachuk can explain where he is coming from and then I can explain where I believe the Government of Canada is coming from.

**Senator Tkachuk:** Honourable senators, I would be happy to take the opportunity to explain. As far as I am concerned, we should have no restrictions on the amount of foreign content holdings. It is the Liberal Government of Canada that seems to be opposed to lifting the restrictions. When it is done suddenly, there is a pent-up demand for foreign investment. Automatically, dollars leave the country and foreign investments are purchased. If the restrictions were lifted, some normal balance would take place, as happens in most countries throughout the world, where it falls around 30 per cent of foreign to domestic investment, therefore, stopping this kind of jerking around that the Liberal government seems to favour.

My explanation, and the point that I was trying to make, is that the only reason people are purchasing RRSPs in Canadian stock, unfortunately, is because they are being forced to do so. When the opportunities are unleashed, Canadians go elsewhere. Meanwhile, our Prime Minister, our Governor of the Bank of Canada and our Minister of Finance are in New York telling people how wonderful it is to invest in Canada, and that they would be buying Canadian dollars if only they knew what we know.

Honourable senators, Canadians are not buying Canadian dollars because our economy is weak due to the fact that the Liberal government has kept the dollar low to create employment and is playing around with our currency, which is now at a very dangerous level. That is the problem we have in this country and that is why our dollar is at 62 cents. As a matter of fact, since the Minister of Finance, the Governor and the Prime Minister have been out there promoting Canada, our dollar has dropped even further. Perhaps the leader could advise members of cabinet that maybe they should quit and things might get a little better, because the more the investment houses find out, the more they may sell.

**Senator Carstairs:** Honourable senators, I will begin by commenting on some of the honourable senator's statements. First, the Canadian economy is not weak. In relationship to the United States, it has been doing far better. Second, the Government of Canada is not playing with Canadian dollars — never has and never will — but we do have an international market and we have exposed our dollar to that international market. If the honourable senator thinks there was a jerk in investment policies when the limit on foreign investment went from 25 per cent to 30 per cent, I do not think he would want me to recommend to the government on his behalf that we go immediately from 30 per cent to 100 per cent.

## INTERNATIONAL TRADE

### RENEWAL OF SOFTWOOD LUMBER AGREEMENT— BREAKING OFF OF DISCUSSIONS WITH UNITED STATES

**Hon. Gerry St. Germain:** Honourable senators, my question is directed to the government leader in the Senate as well, and it relates to the softwood lumber issue. There is disturbing news that talks have broken off with the Americans on this issue. I have reiterated in this place on several occasions in the past that I am taken aback and disappointed that the government did not see this coming down the pike and that the Americans would take the actions they have against Canadian lumber.

In view of the fact that as a country we seem to have broken off talks as a country with the United States, could the minister enlighten the 20,000 unemployed workers in British Columbia, their families and their communities that have been so adversely affected by the huge tariff that has been put on our lumber and by the instability in the industry?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, to be very clear, we have not broken off talks with the United States. We indicated that unless they were prepared to come forward with a proposal, then the meetings scheduled for this week would not take place. What is the point of meeting when we have clearly put proposals on the table — proposals that the provinces quite frankly have been bringing forward in a productive manner. There was no point in continuing with this meeting.

• (1440)

The Minister of International Trade has clearly indicated that he is prepared to sit down at any time with the United States, provided that they are prepared to come with a counter proposal. The provincial premiers and ministers have agreed with Minister Pettigrew.

**Senator St. Germain:** Honourable senators, Minister Pettigrew said that there is no sense in having a meeting if the Americans are still not in a position to react to our constructive and ambitious proposals. The same minister said that he has an excellent rapport with the American appointee to the negotiations, the former Governor of Montana, Mr. Racicot, and now we see a total breakdown of discussions.

In my question to the honourable minister, last Tuesday, I suggested that there might be a personality conflict or something that is problematic to a resolution of this issue. Perhaps we should be looking outside the circle that has been involved because this matter is getting worse.

On Tuesday I informed the Senate that I had spoken at a convention of truck loggers in January of this year. The Minister of Forests from British Columbia also addressed the group. The minister said then that he was expecting a counter-proposal from the United States within a day or so. We are no further down that road.

Honourable senators, I am concerned because this issue has such a large negative impact on British Columbians. It is not only affecting the wood workers, their families and communities, it is also affecting the ability of the provincial government to meet its expectations on health care, education and a litany of other responsibilities.

I am not trying to be partisan or sarcastic in suggesting that we go outside the circle that has been trying to resolve this matter and bring someone else who might move this file to the top of the pile in Washington.

**Senator Carstairs:** With the greatest of respect to Senator St. Germain, the difficulty is not between Minister Pettigrew and Mr. Racicot; the difficulty is with the industry in the United States.

Tom Stephens, the former CEO of MacMillan Bloedel and Riverwood International, wrote recently to Mr. Racicot saying:

I'm proud to be an American, but I'm embarrassed by my nation's policy on Canadian softwood lumber imports. Let's let the market decide whose sawmill can best serve the customer and not a bureaucracy inside the Beltway. Let's not kick our real friends in the shin while they protect our backsides.

The problem, frankly, is that proposals have been made by the Canadian federal and provincial governments, and more specifically by the Province of British Columbia, which province has deep concerns of an economic nature with respect to the softwood file, as expressed so eloquently by the honourable senator opposite. We are up against some members of the softwood industry in the United States who cannot come to an agreement on this subject.

Mr. Racicot must hammer this matter out in the United States and then return to us. Until such time as the Americans are willing to bring concrete proposals to the table, I will continue to agree with Minister Pettigrew, that there is no point having a meeting that resolves nothing.

**Senator St. Germain:** Honourable senators, there is no question that the U.S. industry has been playing games, and they have been doing so for years. Until we entered into the last agreement under the Liberal government, we had always taken

the full route, gone to court and never capitulated. We have now capitulated and we find ourselves in this position.

I say to the Leader of the Government in the Senate, to cabinet and to all honourable senators that we know the power of the President of the United States. He can do what he wants in this world, within reason. If he is not reacting, there is more to this than just a few industry people.

I know Mr. Stephens, he used to head up MacMillan Bloedel in British Columbia. The government is hiding behind the industry. In good faith I say that the government must go beyond the current parties involved. If you do not get to the White House, you will not resolve this matter. That is a proven fact. British Columbians are suffering as we go about this process.

**Senator Carstairs:** Honourable senators, it is also important for us to give consistent messages. On Tuesday, when we discussed this matter, we said that there was a two-track proposal. The honourable senator is now apparently advocating that we go through the courts — and I assume he means the WTO process, when last Tuesday he indicated that that was a useless avenue to pursue.

It is absolutely essential that we pursue both avenues to the best of our ability. However, there is no point holding meetings for which there will not be a resolution.

**Senator St. Germain:** Honourable senators, I said that the WTO route could be pursued. However, by the time we pursue this initiative in such a fashion, British Columbians will be in total economic despair. Historically, Canada has never capitulated to the Americans. We have taken these matters to the International Trade Commission and won our cases time and again.

Let us not confuse the situation. I know what I am speaking about as I have worked on this file. I was the member of Parliament when the shake and shingle industry, of which 90 per cent was in my riding in the Province of British Columbia, was hit with a 35 per cent tariff. I know what I am talking about on this file. I do not wish to confuse the situation; I wish to resolve it. I wish the government success. If the government fails, we fail.

**The Hon. the Speaker:** Honourable senators, I interrupt to draw attention to our rules regarding Question Period and it being an opportunity to put questions and receive answers, not a forum for debate. Having taken up most of our Question Period so far with this exchange, I felt it important to remind honourable senators.

**Senator Carstairs:** Honourable senators, I assure the honourable senator that it is the desire of the Government of Canada as much as it is his desire to resolve this difficulty. In order to do that, we are pursuing all avenues, whether the WTO route or direct negotiations with the United States. A resolution would be in the best interest of Canadians everywhere and, in particular, British Columbians.



## FISHERIES AND OCEANS

BURNT CHURCH—DISPUTE OVER FISHERY—  
COMMENTS BY FORMER MINISTER

**Hon. Brenda M. Robertson:** Honourable senators, my question is for the Leader of the Government in the Senate and is in regard to the fishing or non-fishing agreement in Burnt Church, New Brunswick. Recently, the former Minister of Fisheries and Oceans made statements in relation to the *Marshall* case.

Although I congratulate former Minister of Fisheries Dhaliwal for his work in responding to the *Marshall* decision, which he inherited a month after assuming his portfolio in 1999, his recent boast that he solved the *Marshall* problem in the Maritimes has possibly undermined the work that remains to be done in reaching agreements with bands that have not signed interim agreements, including Burnt Church.

Very suddenly last week, the inshore fishery lost their greatest advocate, Mike Belliveau. He had been the Executive Secretary of the Maritime Fishermens' Union for years and a stabilizing force in that entire industry. Mike's funeral was just last week and just before his sudden demise, he said that matters had been made more difficult for the panel trying to find common ground between Burnt Church, the commercial fishermen and the surrounding communities and that there are still many issues outstanding that will require ongoing and painstaking work by all parties. Many of us in New Brunswick agree with Mike's statement. There was a great deal of worry expressed in the faces of the fishermen at Mike's funeral.

I should like to ask the Leader of the Government in the Senate two things: First, could the former minister explain why he would make this offhanded boast; and, second, has the current minister been apprised of the damaging remarks and has he taken appropriate action to deal with the impression that the work has been completed. Comments such as these create more explosive circumstances than we need in our province.

• (1450)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for her question. I had a number of discussions with the former Minister of Fisheries, Mr. Dhaliwal, with respect to the issue of the *Marshall* decision, as well as its implications. As honourable senators know, many of the bands have signed agreements, and the former minister is, I think, justifiably proud of the renewed economic activity that is taking place in many of the communities that have signed because of the new energy that has been provided to them.

I have never heard him boast that he has solved the entire problem. He has always indicated that some communities still need to get on board, but that he was very proud of those who had come on board and recognized that even for those there was still work to be done, not only with the Aboriginal fishers but the non-Aboriginal fishers, those who have been traditional members of the fishers' communities for many years.

I will contact the present Minister of Fisheries, to whom I have not spoken about this file, and pass on the concerns the honourable senator has expressed today, stating that not only is there much more work to be done with the communities that have signed but also with the non-Aboriginal fishers. Hopefully, everyone will work cooperatively on this.

**Senator Robertson:** Honourable senators, I appreciate the good work of the former Minister of Fisheries. Perhaps he was wrongly quoted in the paper, but I did read the article. I know that the inshore fishermen from and around the Burnt Church area have expressed their tension since that time. That was what Mike Belliveau was concerned about when he brought it to the attention of the press. I would appreciate this matter being cleared up.

## INTERNATIONAL TRADE

SHIPBUILDING INDUSTRY—EFFECT OF EUROPEAN  
FREE TRADE AGREEMENT

**Hon. Brenda M. Robertson:** Honourable senators, my next question concerns shipbuilding, fair trade and the European Free Trade Agreement, something about which we have heard a great deal in the last few months. My question relates to concerns of the shipbuilding and marine fabrication industries about the current European Free Trade Agreement negotiations.

As I understand it, under the current free trade proposal Canada's 25 per cent tariff on ships imported from Norway would be eliminated. Since Norway heavily subsidizes its shipbuilding and marine fabrication industries, eliminating the tariff would put Canadian industries at a severe competitive disadvantage which would result in thousands of jobs being lost in shipyards, vessel operations and the whole offshore support sector.

In view of representations by the united front of elected officials, industry and labour, including Irving Shipbuilding, could the minister, first, confirm that the government will support Canada's shipbuilding and marine industries with fair trade practices? Second, would the minister reassure Canadians living in the Atlantic region that their concerns are properly reflected in the current European Free Trade Agreement negotiations?

Before I take my seat, I would advise that I listened to the minister's response to a similar question in the other place, and I was of the opinion that his answer was very vague. I would appreciate a more specific response to my inquiry.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am aware of the concerns of Atlantic members and senators regarding the marine industry, in particular with respect to the subsidies that are paid by the Norwegian government to their marine industry. We have been assured that an even playing field is what we hope to achieve. That would mean recognition that we must either all be paying the same subsidies or not paying any subsidies. There cannot be a benefit for one that does not accrue to the other.



**Senator Robertson:** Honourable senators, would the minister find out if there is some more specific information? I know where we are trying to go, but can the minister report soon as to whether there have been any specific and positive results regarding this negotiation?

**Senator Carstairs:** The minister is well aware of the situation. In caucus the members from the Atlantic have made him well aware of this particular issue. In addition, if there are any further negotiations or if there is any progress on the negotiations, I will let the honourable senator know.

[Translation]

## JUSTICE

### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—COSTS TO GOVERNMENT

**Hon. Jean-Robert Gauthier:** Honourable senators, my question is for the Government Leader in the Senate. During a speech made in Toronto recently, the Honourable Stéphane Dion said, and I quote:

...before considering any new investment for official languages, the costs entailed in implementing...the *Blais* decision had to be taken into account.

This statement made before the francophone members of the Ontario Bar Association provoked quite a reaction. In my reaction to the minister's speech, I said that it was important not to attach a dollar figure to fundamental rights.

Furthermore, Mr. Dion was told by the Minister of Finance, and I quote:

The \$10 million bill for the *Blais* decision will have to be settled.

The federal government had a one-year period to correct its mistake. There are now some six weeks left before the deadline, March 23, 2002. Has the minister received the breakdown for the costs related to this downloading that was authorized by Parliament in 1996 regarding the Contraventions Act?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I must report to the honourable senator that I do not have that breakdown. I was very interested in the speech that Mr. Dion gave to members of the Ontario bar. In reading it, I agreed with many of his statements, one of which was to the effect that if we must turn to litigation, then we must, but if we can avoid litigation, then we should, and try to reach positive solutions if possible.

Justice officials, along with their counterparts, are apparently focusing their efforts on reaching an agreement that is in compliance with the Federal Court decision. At this stage, I am told that it is impossible for us to give an approximate cost.

[Translation]

**Senator Gauthier:** Official language minority communities want answers and wonder what the government's true colour really are.

[English]

The Minister of Finance has announced that the government has money to pay down nearly \$1.5 billion on the national debt this year. In addition, the minister has said that, with respect to the infrastructure program, he can draw directly on government credits and find \$2 billion to fund that program. He has dropped the idea of a foundation. These two sums amount to \$3.5 billion which is the equivalent of three Olympic stadiums. That is a lot of money.

Can the leader tell me if the Minister of Finance could find in the kitty the monies to pay for the implementation of the decision of Judge Blais, as well as some extra funds for the minority language groups living in our situation, groups which are assimilating at a critical rate? We need action.

**Senator Carstairs:** Honourable senators, it is very clear that the government will do what it needs to do in compliance with the court decision. The reality is that we need to find out how we can meet those compliance requirements. It is unlikely that will happen by March 31, so to suggest that we could use money allocated for this fiscal year is impossible. At the end of the budgetary year on March 31, anything over and above what we have spent will go to pay off the debt.

• (1500)

As to meeting our compliance requirements in the following year, that is what they are working towards, but we do not know the figures for the cost at this stage.

## THE SENATE

### UNITED STATES NATIONAL MISSILE DEFENCE SYSTEM— STATUS OF MOTION RECOMMENDING THAT THE GOVERNMENT NOT SUPPORT DEVELOPMENT

**Hon. Douglas Roche:** Honourable senators, I put this question to the Leader of the Government very sincerely. Tomorrow is February 8, the first anniversary of Motion No. 3 on the Senate Order Paper. Motion No. 3 deals with the proposed U.S. missile defence system and Canada's possible involvement in it. The motion was amended to send the subject matter to committee. I support the amendment, but we cannot get a vote on the motion. Therefore, it sits cluttering up the Order Paper with no action being taken.

I was under the impression that in a democratic assembly, one puts forward proposals, which are given a decent time period for debate, and then a vote is taken. One wins or loses, but at least a decision is taken. That is what democracy is all about. I dare say the government leader shares this fundamental view of democracy.

My question is this: Does the Leader of the Government think that democracy and the reputation of the Senate is being served by taking no action on a matter of vital national importance that has been sitting in the Senate for one year?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. The motion that he has put before the chamber has to do with a missile defence system that has had no elaboration by the United States. If we were to support the motion that he has put before us, then we would send it to committee with virtually nothing to discuss because there is no proposal before us.

We can bring it to a vote, but that would prohibit the member from bringing that motion again in this session should the Americans come forward with a proposal. Once a matter has been decided, it cannot be decided again.

I would recommend to the honourable senator that rather than defeat his motion, we allow it to fall off the Order Paper. That means we have not dealt with it. Should the United States come up with a proposal, he would reintroduce his motion. At that point, we would have something to discuss, and all of us would be engaged. If the honourable senator wants to have a vote at the present time, I can tell him that our caucus has decided to vote against it. If he wishes it defeated, so be it.

**Senator Roche:** I hope the Leader of the Government will not mind my using the word "disingenuous" to characterize that response because this matter is of vital national and international importance. I thought that the purpose of a study was to examine all sides of the issue so that advice could then be given to the Government of Canada for its ultimate decision. Sufficient information has been released by the government of the United States on this matter. It sent a delegation to Ottawa. The matter is in play.

I am willing to live with a "no" vote, and I am also willing to accept her advice. I did offer to withdraw the motion at one stage so that a new motion with entirely neutral language could be introduced, but I was denied permission or leave to withdraw the motion.

I feel it is being left in limbo, and that is not doing the Senate any real service.

**Senator Carstairs:** If the honourable senator wishes to have the question put, we on this side will facilitate him. However, I have to tell him that the decision has been made that we vote against it, because we do not believe we have any ability to study an issue without significant information on the table.

## NATIONAL DEFENCE

WAR IN AFGHANISTAN—TAKING OF PRISONERS BY JOINT TASK FORCE 2 TROOPS—INFORMING OF LEADER OF THE GOVERNMENT

**Hon. Terry Stratton:** Honourable senators, my question is to the Leader of the Government in the Senate. Can the minister tell this chamber on what date she learned that members of Joint Task Force 2, JTF2 as it is known, took prisoners in Afghanistan?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I learned about the incident at exactly the same meeting and at exactly the same time the Prime Minister learned of it.

**Senator Stratton:** Could the minister tell us who communicated it to her? Was it during Question Period in the House?

**Senator Carstairs:** It might have been a cabinet ministers' meeting, which already has been in the media, so I am not divulging anything. We were informed by the Minister of Defence that it had occurred.

**Senator Stratton:** Does the minister of the Crown and the only minister in the Senate receive copies of significant incident reports and/or situation reports from the Privy Council Office with regard to international military operations, and if not, why?

**Hon. Sharon Carstairs (Leader of the Government):** No, I have not received it because I am not one of the ministers who would receive those reports. Those reports would go to the Minister of Defence and, in some cases, the Minister of Foreign Affairs. They would not come to the Leader of the Government in the Senate.

## HER MAJESTY QUEEN ELIZABETH II

POSSIBILITY OF GOLDEN JUBILEE COMMEMORATIVE MEDAL

**Hon. Jeremiah S. Grafstein:** Is the government giving consideration to a Golden Jubilee medal to commemorate Her Majesty's Golden Jubilee, as did the government of the day 25 years ago to commemorate Her Majesty's Silver Jubilee?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I cannot give the honourable senator that information, but I will seek such information. I know that a 50-cent piece will be distributed through our banking system in honour of the jubilee. Whether they will go further and strike a Golden Jubilee medal, I do not know, but I will seek that information, and I would support such a medal being produced.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have a response to a question raised in the Senate on November 6, 2001, by Senator Tkachuk, regarding finance, the minister's speechwriter and the contractual arrangement.

## FINANCE

MINISTER'S SPEECHWRITER—CONTRACTUAL ARRANGEMENT

(Response to question raised by Hon. David Tkachuk on November 6, 2001)

The \$214,000 including GST quoted in the Ottawa Citizen is for a two-year contract, not one year.



Moreover, the dollar figure represents the maximum amount payable under the contract, not the amount actually paid. That means the work will be performed on an "as and when requested" basis, so in all likelihood the actual value will be lower than the estimated amount.

Mr. Lockhart's fee is \$800 a day. This is in line with what other senior speechwriters charge for this highly specialized work.

Finally, the contract was open to competitive challenge.

[English]

## ORDERS OF THE DAY

### STUDY ON MATTERS RELATING TO FISHING INDUSTRY

REPORT OF FISHERIES COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the third report (interim) of the Standing Senate Committee on Fisheries entitled: *Aquaculture in Canada's Atlantic and Pacific Regions*, deposited with the Clerk of the Senate on June 29, 2001.—(Honourable Senator Mahovlich).

**Hon. Joan Cook:** Honourable senators, before standing this item, I ask leave to respond to a question raised in this place by the Honourable Pat Carney on December 11, 2001.

**The Hon. the Speaker pro tempore:** Is leave granted?

**Hon. Senators:** Agreed.

**Senator Cook:** Honourable senators, in my speech of December 11 regarding the June 2001 report on aquaculture in Canada's Atlantic and Pacific regions, I noted that the B.C. government favoured lifting a moratorium placed in 1995 on the expansion of new salmon farms. Senator Carney said she was not aware of any public statement to that effect and asked where the information came from.

My response to that question is based on the following indicators. Hal Burton of the *Seattle Times* reported on September 2 why we should be concerned about eating salmon.

In the next few years, the British Columbia provincial government, which was elected in June on a "pro-growth"

platform, is expected to lift the moratorium and increase the pace of development.

• (1510)

Second, a press release by the Leggatt Inquiry into Salmon Farming in British Columbia on September 22 reported that the moratorium on new net cage fish farms in B.C. was imposed in 1995, but the B.C. government has indicated it intends to lift the moratorium once it is satisfied that the environmental concerns are addressed.

Finally, on August 28, the Ministry of Water, Land and Air Protection issued a news release concerning its Salmon Farming Monitoring Report, stating:

"The aquaculture industry has the potential to create more jobs and to give hope to coastal communities that need economic opportunity," said Minister of Agriculture, Food and Fisheries, John van Dongen. "We hope to achieve growth of this industry in a way that ensures strong environmental protection while also meeting the needs of people who seek prospects for the future."

[Translation]

**The Hon. the Speaker pro tempore:** Honourable senators, this question stands in the name of Senator Mahovlich on the Order Paper.

Is leave granted to allow it to continue to stand in the name of Senator Mahovlich?

**Hon. Senators:** Agreed.

## ADJOURNMENT

Leave having been given to revert to Notices of Government Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, February 19, 2002, at 2 p.m.

**The Hon. the Speaker pro tempore:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, February 19, 2002, at 2 p.m.



**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
 Thursday, February 7, 2002

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd 01/06/06	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01	01/12/18	30/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negated 01/12/10	11 1 at 3rd 01/12/13	01/12/18		
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs					
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	P.A.	Enact.
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce	—	—	—	—	—
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	01/12/18	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	01/12/18	33/01
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	01/12/18	28/01
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21)	01/11/27	Energy, the Environment and Natural Resources	—	—	—	—	—
		01/11/22 (reintroduced)							
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	01/12/18	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs	—	—	—	—	—



C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples					
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources					
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0			
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

## COMMONS PUBLIC BILLS

[illegible]

## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Gratstein)	01/01/31	01/02/08	—	—	—	01/02/08 Senate agreed to Commons amendment 01/12/12	01/12/18	36/01
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology	01/12/14	0			
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Gratstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources	01/11/27	0			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)	(01/12/14)				
S-22	An Act to provide for the recognition of the <i>Canadien</i> Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13							
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Krott)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	42/01
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01



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CANADA

# Debates of the Senate

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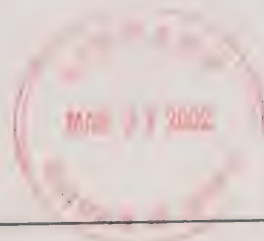
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OFFICIAL REPORT  
(HANSARD)

Tuesday, February 19, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Tuesday, February 19, 2002

The Senate met at 2:00 p.m., the Speaker in the Chair.

[English]

Prayers.

### SENATORS' STATEMENTS

#### THE LATE H.R.H. PRINCESS MARGARET ROSE

##### SILENT TRIBUTE

**The Hon. the Speaker:** Honourable senators, before any other matters come before the Senate, I announce that we were saddened to learn of the passing of Her Royal Highness Princess Margaret on February 9, 2002. I am writing to Her Majesty the Queen on behalf of all honourable senators and Canadians generally to express the sympathy of the Senate on this sad occasion.

I now invite honourable senators to rise and observe a minute of silence in memory of Her Royal Highness.

*Honourable senators then stood in silent tribute.*

[Translation]

#### ROYAL ASSENT

##### NOTICE

**The Hon. the Speaker** informed the Senate that the following communication had been received:

##### RIDEAU HALL

February 19, 2002

Mr. Speaker,

I have the honour to inform you that the Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, will proceed to the Senate Chamber today, the 19th day of February, 2002, at 2:55 p.m., for the purpose of giving Royal Assent to a bill.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the House of Commons  
Ottawa

#### HEART AND STROKE AWARENESS MONTH

**Hon. Wilbert J. Keon:** Honourable senators, the month of February is devoted to heart and stroke awareness, a disease that imposes significant hardship and a diminished quality of life for some 2 million Canadians and accounts for 36 per cent of all annual deaths and \$20 billion a year in health care expenditures.

Despite all our efforts to educate our population on risk factors, to implement preventive measures, to collaborate on more research and to simply adopt healthy choices, there is still a long way to go.

In its annual report card, the Heart and Stroke Foundation identified a group that is currently treading in a mine field of risk factors, namely "tweens"; that is to say, young kids between the ages of 9 and 12 who could develop heart disease as early as in their 30s.

Honourable senators, it is a terrible irony that during an age that has accomplished research on the underlying pathophysiology of heart disease and stroke, as well as the effectiveness of prevention interventions, our young people are likely to encounter heart disease at a significantly earlier time than their parents.

Not surprisingly, young people across North America are succumbing to an increasingly hazardous lifestyle owing to hours of sedentary inactivity spent in front of computers, TVs and video games, eating fast food in cafeterias and being exposed to second-hand smoke. The rate of childhood obesity is skyrocketing.

The formula to get back on track is simple and starts at home. Despite the new pressures parents and educators face today, children must learn the fundamental laws of health through education and, most importantly, by example — no smoking, healthy eating and an active lifestyle.

Yesterday, representatives from the Heart and Stroke Foundation of Canada, the Canadian Cardiovascular Society and the Canadian Society of Cardiovascular Nurses visited many honourable senators. This was a combined effort to raise awareness and to urge the federal government to invest heavily in research, public education and especially in the prevention of this largely preventable disease.

I hope all honourable senators will support this cause.

## HERITAGE DAY

**Hon. Elizabeth Hubley:** Honourable senators, on Monday of this week, Canadians throughout the country celebrated Heritage Day. Heritage Day is an opportunity for all to look backwards, down the path of history, to bring into focus as we go the people, events and circumstances that have shaped us. Looking back from where we have come is increasingly difficult in today's world where change occurs quickly and the present demands so much of our attention. Without a knowledge and understanding of our heritage, we are lost in the labyrinth of today without the wisdom to face and choose the future.

All of us share a national heritage and identity. However, language, ethnicity, region and local community give each of us a badge of cultural distinctiveness. I am so proud to live in a country where not only shared values are cherished, but where cultural differences are also celebrated and protected. It is this cultural diversity and continued ability to forge a nation based upon mutual respect and dignity that is our greatest strength.

As we look back along the heritage path, let us celebrate and rejoice in our achievements.

• (1410)

On this Heritage Day, I wish to acknowledge in particular the vitally important work carried out by museums, archives and heritage groups across Canada, for it is these institutions that acquire, assemble and preserve our collective historical record.

In my own province of Prince Edward Island, the P.E.I. Museum and Heritage Foundation has been doing a tremendous job of preserving and interpreting the human and natural history of the Island. A second important provincial organization, the Community Museums Association of P.E.I., takes a leadership role in training and development.

Honourable senators, these living museums tell stories of early rural life in Prince Edward Island, of the development of the fisheries and agriculture, stories of 19th century wooden shipbuilding and of the Acadian people.

On Monday evening, the P.E.I. Museum and Heritage Foundation presented its annual Heritage Awards in Summerside to groups and individuals who have made special contributions to Island heritage over the past year. The Award of Honour was presented to Mr. David Webber, a visual artist, historian and former Director of the Confederation Centre Art Gallery and Museum.

Honourable senators, each one of us has a heritage to preserve and celebrate in our homes and our communities. It is all around us — in the architecture of our buildings, in the natural beauty of our forests and farmlands, in the wisdom and experience of our seniors.

I wish all Canadians a somewhat belated happy Heritage Day 2002.

## TRANSPORT

## AVIATION SECURITY FEE

**Hon. Pat Carney:** Honourable senators, I should like to draw your attention to the devastating impact on small communities of Canada of the proposed aviation security fee. Under pending legislation, starting in April, airline passengers in Canada will be required to pay an extra \$12 every time they board a one-way flight. A round trip will cost an extra \$24. For small aircraft carriers that fly people short distances on the West Coast, this air traveller security charge can represent, in many cases, a 25 per cent increase in the price of a ticket. To fly to my island from Vancouver, which is approximately a \$60 one-way fare, the \$12 will represent a 20 per cent increase. One can imagine the problems this creates.

According to the B.C. Aviation Council, which serves aviators and the public, the additional charge could be devastating. In a very fragile market, this new fee will reduce the number of airline passengers to many communities without alternative forms of transportation.

Adding \$24 to a discount carrier's short-haul fee is exorbitant and will come at a cost to small aircraft carriers on the West Coast and their customers. Shouldering even a part of this \$2-billion tax could collapse the industry and any activity associated with it. Coastal communities will lose not only a vital link up and down the coast but the economic benefits that come with it.

I have received a host of calls, e-mails and letters from British Columbians who are very concerned about the fee increase. There is no evidence that short-haul flights on the B.C. coast face a security threat or pose a risk to travellers. This fee should be eliminated for such flights, and a positive decision should be immediately relayed to the concerned communities.

## NEWFOUNDLAND AND LABRADOR

## TWENTIETH ANNIVERSARY OF CAPSIZING OF OCEAN RANGER OFFSHORE OIL RIG

**Hon. Ethel Cochrane:** Honourable senators, I rise today in recognition of the 20th anniversary of the Ocean Ranger disaster that was marked last Friday. For most Newfoundlanders and Labradorians it was as they turned their radios on in the early morning of February 15 that they heard the unthinkable news. The Ocean Ranger, then the world's largest drill rig, and said to be "unsinkable," had capsized. All 84 men on board the platform were lost — more than 50 young men from our own province and another 15 from other parts of Canada.

News of the loss of the Ocean Ranger touched every life in the province. It is the tragedy that defined an era for us.

In the wake of February 1982, we vowed, in honour of every young man who perished that day, to do what we could to ensure that a similar event would never again happen. I believe that we have remained true to that pledge.



In response to the disaster, a joint federal-provincial commission found that engineering and design flaws, along with poorly enforced regulatory regimes, contributed to that tragedy. In the years since those findings, we have demanded and observed significant changes. Indeed, there have been major improvements that further protect the lives of all offshore workers.

Recently, as part of the Standing Senate Committee on Energy, the Environment and Natural Resources, I travelled to Atlantic Canada where we met with oil industry stakeholders and others. At that time, I asked the CEO of the Canada-Newfoundland Offshore Petroleum Board about the safety of rigs in our waters. He confirmed for me that in light of the Ocean Ranger tragedy there have been substantial changes — changes spurred by government.

Today, we have higher standards with regard to design and construction and we place greater emphasis on inspection requirements. Perhaps more important, the standard has also been raised for vocational skill and survival training for all those who work offshore.

Today, basic survival is viewed as a top priority, and with it is a requirement that there be 200 per cent capacity coverage for such things as survival suits and lifeboats. These devices must not only be present but must be located at critical locations on all platforms.

These measures were not in place to protect the 84 men who died in the worst offshore drilling accident in North American history. They cannot bring these men back to their wives, children, families and friends. However, the improvements we demanded in light of the Ocean Ranger tragedy have, to this day, protected the people who continue to work offshore, and they are many. The lessons learned 20 years ago were not lost; those men did not die in vain.

[Translation]

## THE LATE THÉRÈSE DAVIAU

### TRIBUTE

**Hon. Lucie Pépin:** Honourable senators, we were greatly saddened to learn of the death of Thérèse Daviau on February 1.

Passionately involved in municipal politics, Thérèse Daviau always distinguished herself by her charisma, courage, generosity and ability to mobilize people around great causes.

In 1974, at the age of 28, Thérèse Daviau was elected to the Montreal municipal council under the banner of the Rassemblement des citoyens de Montréal, of which she was a founding member. Her entry into municipal politics was shared by two other women, which was a considerable shock to the conservatism of Montreal municipal politics of the day.

In 1978, Thérèse Daviau returned to school, earning a law degree from the Université de Montréal. Admitted to the Bar in 1984, she practiced for four years, returning to the political arena

in 1986. She was re-elected in 1990 and occupied a number of important positions within the municipal team. In 1998, she left behind politics, and the trials and tribulations of heading the RCM, for a position as vice-president of a public relations firm, where she remained until shortly before her death. In all, a very full career.

Thérèse Daviau will also be remembered for her commitment to combating violence toward women. After the École Polytechnique de Montréal massacre in 1989, in which her own daughter was one of the fourteen young women killed, she joined forces with a number of like-minded women in the December 6 Victims Foundation Against Violence to achieve tighter gun control in Canada.

Herself a symbol of women's involvement in municipal politics, Thérèse Daviau did a great deal to attract women to political activity. She remains a source of inspiration for a whole generation.

[English]

## ROUTINE PROCEEDINGS

### CRIMINAL LAW AMENDMENT BILL, 2001

#### REPORT OF COMMITTEE

**Hon. Lorna Milne,** Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Tuesday, February 19, 2002

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

#### FOURTEENTH REPORT

Your Committee, to which was referred Bill C-15A, *An Act to Amend the Criminal Code and to amend other Acts*, has, in obedience to the Order of Reference of Tuesday, November 6, 2001, examined the said Bill and now reports the same with the following amendments:

1. *Page 2, clause 5:* Add after line 37 the following:

**“(21) Section 163.1 of the Act is amended by adding the following after subsection (3):**

(3.1) A custodian of a computer system who merely provides the means or facilities of telecommunication used by another person to commit an offence under subsection 163.1 (3) does not commit an offence.

(3.2) In this section, “telecommunication” has the same meaning as in section 326 and 327 of this Act.”

2. *Page 3, clause 5:* Add after line 7 the following:

**“(4) Subsections 163.1(6) and (7) of the Act are replaced by the following:**

(6) Where the accused is charged with an offence under subsection (2), (3), (4), or (4.1), the court shall find the accused not guilty if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose

(7) Subsections 163(3) to (5) apply, with such modifications as the circumstances require, with respect to an offence under subsection (2), (3), (4) or (4.1).”.

Respectfully submitted,

LORNA MILNE  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Milne, report placed on the Orders of the Day for consideration at the next sitting of the senate.

[Later]

#### CLAIM SETTLEMENTS (ALBERTA AND SASKATCHEWAN) IMPLEMENTATION BILL

##### REPORT OF COMMITTEE

Leave having been given to revert to Presentation of Reports from Standing or Special Committees:

**Hon. Thelma J. Chalifoux**, Chair of the Standing Senate Committee on Aboriginal Peoples, presented the following report:

Tuesday, February 19, 2002

The Standing Senate Committee on Aboriginal Peoples has the honour to present its

##### SIXTH REPORT

Your Committee, to which was referred the Bill C-37, An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act, has examined the said Bill in obedience to its Order of Reference dated Tuesday, December 17, 2001, and now reports the same without amendment.

Respectfully submitted,

THELMA J. CHALIFOUX  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

#### STUDY ON MATTERS RELATING TO FISHING INDUSTRY

##### REPORT OF FISHERIES COMMITTEE TABLED

**Hon. Gerald J. Comeau:** Honourable senators, I have the honour of tabling the fifth report of the Standing Senate Committee on Fisheries, on the themes chosen regarding freshwater fishing and Northern fishing.

On motion of Senator Comeau, pursuant to rule 97(3) of the Rules of the Senate, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

• (1420)

[English]

#### NATIONAL ANTHEM ACT

##### BILL TO AMEND—FIRST READING

**Hon. Vivienne Poy** presented Bill S-39, to amend the National Anthem Act to include all Canadians.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Poy, bill placed on the Orders of the Day for second reading two days hence.

#### CANADA-CHINA LEGISLATIVE ASSOCIATION

##### FOURTH ANNUAL MEETING, OCTOBER 2001— REPORT OF CANADIAN DELEGATION TABLED

**Hon. Jack Austin:** Honourable senators, pursuant to rule 23(6), I have the honour to present to the Senate, in both official languages, the sixth report of the Canada-China Legislative Association regarding the fourth bilateral meeting held in Canada in October 2001.

#### THE SENATE

##### MOTION TO AUTHORIZE VIDEOTAPING OF ROYAL ASSENT CEREMONY ADOPTED

**Hon. Richard H. Kroft:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(i), I move:

That the Senate authorize the videotaping of the Royal Assent ceremony scheduled today, for the purpose of making an educational video.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.



Motion agreed to.

### NATIONAL FINANCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND  
DATE OF FINAL REPORT ON STUDY ON EFFECTIVENESS OF  
PRESENT EQUALIZATION POLICY

**Hon. Lowell Murray:** Honourable senators, I give notice that on Wednesday next, February 20, 2002, I will move:

That the date for the presentation by the Standing Senate Committee on National Finance of the final report on its study on the effectiveness and possible improvements to the present equalization policy, which was authorized by the Senate on June 12, 2001, be extended to March 22, 2002.

### HUMAN RIGHTS

NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY  
CANADA'S ADHERENCE TO INTERNATIONAL  
HUMAN RIGHTS INSTRUMENTS

**Hon. A. Raynell Andreychuk:** Honourable senators, I give notice that at the next sitting of the Senate, I shall move:

That the Standing Senate Committee on Human Rights be authorized to examine and report on the status of Canada's adherence to international human rights instruments and on the process whereby Canada enters into, implements and reports on such agreements; and

That the committee report to the Senate no later than March 31, 2003.

## QUESTION PERIOD

### NATIONAL DEFENCE

MINISTERS ELIGIBLE FOR BRIEFINGS ON AFGHANISTAN

**Hon. Pierre Claude Nolin:** Honourable senators, my question is for the Leader of the Government in the Senate. Should we believe *The Globe and Mail* this morning when it reports that a secret document written last November names Defence Minister Art Eggleton as the only civilian eligible for regular briefing on the action of Canada's special military force in Afghanistan?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, quite frankly, I do not have enough information. Since I did not read the article, I do not know specifically what the honourable senator is addressing.

### PRIME MINISTER'S OFFICE

CABINET COMMITTEE ON DEFENCE AND SECURITY

**Hon. Pierre Claude Nolin:** Honourable senators, when the Prime Minister announced the cabinet shuffle last January, he issued a press release in which he listed the totality of the cabinet and the various committees of the cabinet. Can the Leader of the

Government inform me which committee of the cabinet is responsible for security and intelligence, who chaired the committee and who the members are of such a committee of cabinet?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, there is no such committee. A special committee established on defence and security, not a regular cabinet committee, came into being as a result of the September 11 tragedy. That committee was chaired by Mr. Manley and had Mr. Eggleton as one of its members.

**Senator Nolin:** Does the Prime Minister sit on such a committee?

**Senator Carstairs:** The Prime Minister does not sit on any of the committees.

CONVERSATIONS BETWEEN PRIME MINISTER AND LEADERS OF  
FOREIGN STATES—BRIEFING PROCESS

**Hon. Pierre Claude Nolin:** When the President of the United States calls the Prime Minister of our country to talk about the security of the world, and when the President specifically asks your Prime Minister — my Prime Minister — about the way the Canadian military is handling its responsibilities in Afghanistan, does the Prime Minister refer the question from the President of the United States to the Minister of Defence or does he answer it himself?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator must know, given his experience in political life, that conversations between prime ministers and presidents rarely take place without advance briefings on the issues upon which discussions will take place. Obviously, the Prime Minister would be given up-to-date briefing information by the staff of the Privy Council Office as well as by individual ministers on the details of their portfolio, if those details were to be under discussion.

### NATIONAL DEFENCE

AFGHANISTAN—BRIEFING OF PRIME MINISTER

**Hon. J. Michael Forrestall:** Honourable senators, this question is by way of supplementary. We learn, through a memo signed by the Minister of National Defence, the Chief of the Defence Staff and the deputy minister, that the Prime Minister is not advised. I am a little concerned as to where the foundation in law comes that gives these three gentlemen the power to deny information of this nature to the Prime Minister.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Honourable Senator Forrestall has spent a great number of years in political life. There is a structure in place. The military reports to the Minister of Defence. The Minister of Defence, as a minister of cabinet, does what each minister of cabinet does: He reports issues to the Prime Minister that he thinks are of particular importance or, if in fact he is questioned by the Prime Minister about a particular issue, then clearly he gives that information.

I think the honourable senator recognizes that as the minister responsible for the operations of the Senate, I do not brief the Prime Minister on a daily basis upon all the activities that take place in this chamber.



• (1430)

**Senator Forrestall:** Honourable senators, I would not think he had that much time.

I am trying to find out what foundation in constitutional law — or is it precedent or custom — staff would use as the basis for restricting the flow of information. I assume someone does not simply say, “We will not let the old fellow know about this. The less he knows the better.” We all live with that once or twice in our lives, but this seems to be deliberate, routine almost, and it prompts me to wonder if the minister could find out just how many other areas of information the Prime Minister does not have access to. Is it possible to have a list of these restricted areas of information so that we know precisely how inadequate the poor fellow must feel sometimes?

**Senator Carstairs:** Honourable senators, to the contrary, it always amazes me how informed the Prime Minister of this country is on every issue before the Government of Canada. However, with respect to the issue to which I think the honourable senator is referring, because he has not quite defined it, if members of the military are, in fact, in operations somewhere in the world and they are following all of the procedures, rules and day-to-day practices that would normally be within their mandate, there would be no reporting because none of those circumstances would be unusual.

Where it became critical for a minister to inform the Prime Minister — and for this reason, Mr. Eggleton apologized and indicated he should have informed the Prime Minister — is that there seemed to be some question about whether the incident in question went beyond the mandate of the particular group.

**Senator Forrestall:** Honourable senators, I do not like getting up and asking questions about helicopters. I got more satisfaction in the United States last week about seaborne helicopters than I get here.

Where does the authority come from? Who makes this decision? If the Deputy Minister and the Chief of the Defence Staff can make that kind of decision, is the Prime Minister being denied information by the Minister of Justice or the Minister of Public Works because one does not want any evil to flow past the Prime Minister's eyes or ears? Are there any other situations that we should know about so we will not be surprised? We must be careful here because the minister either misled, accidentally or deliberately, or did not know how to handle this awesome power and authority he has. Are there any other incidents we should be looking for?

**Senator Carstairs:** Honourable senators, I am glad that the honourable senator learned more about helicopters on his trip to Washington, although I understand he learned interesting things on his trip to Shearwater as well.

In regard to the issue he has put before the Senate this afternoon, clearly, that is a judgment decision on the part of a minister. In this case, the minister has said he should have

informed the Prime Minister. However, I think the honourable senator would have to concede that it is not possible for a minister to inform the Prime Minister about every single operation taking place in a ministry, any more than I would inform the Prime Minister, as government leader in the Senate, about every single thing that we do in this chamber. It would be ludicrous for me to burden the Prime Minister with the day-to-day details. What is critical is that ministers recognize when there are significant matters that must be shared with the Prime Minister, and that is what Mr. Eggleton did in cabinet. I think he then said that perhaps he should have done it a few days earlier.

**Hon. Pat Carney:** Honourable senators, I listened carefully to the answer of the Leader of the Government in the Senate to Senator Forrestall's query, and she might want to correct the record. She used the word “ludicrous” as an adjective to describe telling the Prime Minister, as a cabinet minister, things that go on in her department. We all agree there are day-to-day operational details that a minister does not feel required to tell a Prime Minister, but a minister has a responsibility to tell the Prime Minister and cabinet colleagues about things of significant importance.

The minister might want to clarify the record that she did not consider it a ludicrous decision on behalf of the cabinet minister in failing to report to the Prime Minister.

**Senator Carstairs:** Honourable senators, I used the word “ludicrous” specifically in relation to the day-to-day operations, and the honourable senator herself said they should not be forwarded to the Prime Minister. This was an important issue. It should have been forwarded to the Prime Minister. There is no question about that particular issue. The information was given at the cabinet table, and it is fair to say that there was a considerable amount of unease among a number of the ministers who learned it for the first time at that moment, including the Prime Minister.

[Translation]

## JUSTICE

### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—INTENTION OF GOVERNMENT

**Hon. Jean-Robert Gauthier:** Honourable senators, my question is for the Leader of the Government in the Senate and it has to do with Justice Blais' decision to the effect that the government has one year, that is until March 23, 2002, to correct its mistake. What will happen if the government does not comply with Justice Blais' decision? What will happen to those who get ticketed by local police forces in the six Canadian provinces, on federal land, namely airports, parks and everything that has to do with fisheries? This is an important issue. It is not a money issue, but a matter of principle. Could the minister ask the Minister of Justice what will happen on March 24? Will we go back to the old system or will we proceed differently?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator has indicated, a deadline was established in the Federal Court ruling of March 23, 2002. The government is doing everything it can to come up with a response and is extremely hopeful that it will. Under some circumstances, the judge who makes the ruling can be asked for an extension. However, it is my understanding that the government hopes it will not have to do so in this case.

**Senator Gauthier:** Honourable senators, in the old system, the RCMP would give a ticket, and that would block the courts in the area, and there would be a backlog of cases. That is why there was an agreement between the federal government and the provinces to give it, by devolution, the responsibility of issuing tickets on federal lands. Are we going back to the old system on March 24 of this year, and, if not, please tell me what will happen?

**Senator Carstairs:** Honourable senators, as the honourable senator knows, I have been receiving updates on the progress of this case. I cannot give him more information today, but I will urge the government to provide, as soon as possible, that information to him and to citizens across the country.

• (1440)

## FOREIGN AFFAIRS

CASE OF RUSSIAN DIPLOMAT CHARGED WITH CAUSING DEATH  
WITH MOTOR VEHICLE WHILE UNDER INFLUENCE OF  
ALCOHOL—REQUEST FOR UPDATE

**Hon. Norman K. Atkins:** Honourable senators, could the Leader of the Government in the Senate give us the status of the Russian diplomat who caused the accident on Dufferin Street in Ottawa?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I wish to thank the honourable senator for his question. The case was originally set for February 12. At that time, however, the case was delayed for one month. One assumes that it will be heard on March 12. The administrator of the judicial system in Moscow made that decision.

**Senator Atkins:** Was it requested for the defence of the diplomat?

**Senator Carstairs:** That is not my understanding, but I will get that clarified. My understanding was that the prosecutorial team asked for the delay.

## UNITED NATIONS

IRAQ—REOPENING OF BORDERS TO DETERMINE  
COMPLIANCE WITH RESOLUTIONS

**Hon. Douglas Roche:** Honourable senators, many Canadians — and I am one — support Prime Minister Chrétien's refusal to support the United States in expanding the war against Afghanistan by attacking Iraq.

My question is: What political and diplomatic steps is Canada taking to get Iraq to reopen its territory to UN inspectors? Iraq has opened its borders to inspectors from the International Atomic Energy Agency, who have found no evidence of the production of weapons of mass destruction. However, for the past three years Iraq has refused UN inspectors, although it is now contemplating their return. If UN inspectors are allowed back in, there will be no grounds for a unilateral U.S. attack. Can Canada work with Arab leaders such as Saudi Arabia's Crown Prince and de facto ruler, Abdullah bin Abdul Aziz, to get Iraq to open its borders so that the UN can determine if Iraq is complying with UN resolutions?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I am pleased that the honourable senator addressed the necessity for Iraq to respect the decisions made by the United Nations and to open its doors to that kind of investigation. Iraq has placed itself in a difficult situation in the view of the international community as a result of its failure to expose itself to these inspectors so that we can either prove or disprove the concerns that many nations have about weapons of mass destruction being located in Iraq. The Government of Canada is concentrating on trying to get Iraq to respond to what it had originally considered an agreement.

**Senator Roche:** I wish to thank the minister for that response.

## FOREIGN AFFAIRS

IRAQ, IRAN AND NORTH KOREA—EXPANSION OF WAR AGAINST  
TERRORISM—CONSULTATION WITH UNITED NATIONS  
SECURITY COUNCIL IN ADVANCE OF TAKING ACTION

**Hon. Douglas Roche:** Honourable senators, I have another question for the minister. Will Canada hold to the policy that any military action against Iraq or the other two countries named in the "axis of evil" statement, namely North Korea and Iran, must be taken only with the consent of the Security Council of the United Nations?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Prime Minister has been clear on this position. He does not believe that there is anything at the present time that would justify such action.

## THE SENATE

IRAQ, IRAN AND NORTH KOREA—EXPANSION OF WAR AGAINST  
TERRORISM—POSSIBILITY OF STUDY BY  
FOREIGN AFFAIRS COMMITTEE

**Hon. Marcel Prud'homme:** Honourable senators, I am very pleased at my colleague's question and the answer that was given to him. I, too, am happy that the Prime Minister of Canada has shown his experience by not stampeding to a final conclusion. Some members here may remember that in December 1990 and in January 1991, there was an acrimonious debate in the House of Commons within the Liberal Party. We all know that in the morning of that day, the Liberals were opposed to participation. All kinds of events took place during the day. At the end of the day, Mr. Turner, having split with his caucus, made an acrimonious statement in favour of participating. The Liberals decided to vote in favour of the proposal, with the exception of four Liberals, namely, Mr. Allmand, myself, Ms Catterall and



Mr. Stewart. This is the same kind of debate that is taking place here.

The chairman of the Foreign Affairs Committee is not here at the moment. I know what the Leader of the Government's answer to my question might be, but could she use her great power on the Chairman, since this is such an important issue, so that the Standing Senate Committee on Foreign Affairs — as we used to do in the House of Commons — could call in certain ambassadors to give us a briefing? It is easy to organize that outside of their actual work. Perhaps we could then call on officials from the Department of External Affairs for a private briefing, as well as some of the ambassadors who are attuned to the developments there, as well as ambassadors who hold various opinions, including the Ambassador of Israel, in order to be in a position where we are more informed.

The President of Israel will be here in the first week of March. Apparently, he will address the House of Commons. Will we be invited to hear his speech? If he is to speak to the House, does that include the Senate? At the moment, I have read that only the House of Commons will be invited. That is against every tradition of which I am aware. Either he speaks to both Houses or he speaks to a few.

Would the government leader use her strong capacity to convince the Chairman of the Standing Senate Committee on Foreign Affairs that it is important that we be briefed? Everyone who would be beneficial to such a process is located here, in Ottawa. We could hear from them without incurring extra costs and, in so doing, be up to date on the matter.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, there are clearly two parts to the honourable senator's question. He knows the answer to the first one. The activities of the Standing Senate Committee on Foreign Affairs are mandated to the committee through references to the Senate. It would be up to the committee to decide what they will do. I received a briefing earlier today from the Chair of the Standing Senate Committee on Foreign Affairs on the work they have been doing — excellent work, in fact — on their study of Russia and the high-powered witnesses that they had before that particular committee in the course of their study. The honourable senator attends a number of meetings of the Standing Senate Committee on Foreign Affairs, and I am sure that they would be interested in his proposal.

Regarding his second question, the honourable senator is quite correct. I have never known a minister of state, president or prime minister who would address only one chamber of Parliament. I would assume that if there is to be an address to the House of Commons, it would be a joint sitting of the Commons and the Senate. If that is not the plan, I will try to make it the plan.

**Senator Prud'homme:** That is why we should have a good briefing.

[ Senator Prud'homme ]

## VETERANS AFFAIRS

### FEDERAL COURT RULING GRANTING VETERANS STATUS TO CITIZEN OF PRINCE EDWARD ISLAND

**Hon. Gerald J. Comeau:** Honourable senators, my question concerns a Federal Court justice ruling that granted veteran status to a P.E.I. man who crossed the Northumberland Strait ferry on his way to a recruiting office in Halifax but failed the medical. The court ruling provides eligibility for federal allowance for health benefits such as drugs and dental care. The federal response to date has been that it may appeal the ruling. Would the minister provide assurances to this house that the government will appeal the ruling?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, to the best of my knowledge the government has not yet decided whether or not to appeal the ruling. When I receive clarification about that, I will share it with the honourable senator.

**Senator Comeau:** Lord knows how this case could have reached this stage. I am quite sure the legislation was not meant for this kind of activity. I think most Canadians would agree with the premise that we must give the benefit of the doubt to veterans. This case makes a mockery of the War Veterans Allowance Act and it demeans the sacrifice of the men and women who proudly served their country in its time of need, both in the military and in the Merchant Marine. I am asking the minister to convey to her colleagues that we should not dishonour the memory of those fighting men and women who served their country and continue with this kind of mockery.

**Senator Carstairs:** Honourable senators, I thank the honourable senator for his intervention. I will share his passionate concern about the act with the Minister of Veterans Affairs and the Minister of Justice.

• (1450)

## THE ENVIRONMENT

### RATIFICATION OF KYOTO PROTOCOL—PUBLICATION OF IMPACT ANALYSIS AND REGULATIONS

**Hon. Ethel Cochrane:** Honourable senators, my question relates to the Kyoto protocol. The reduction of greenhouse gas emissions is an essential element of any sustainable development plan. However, the policy instruments Canada will choose to meet this goal will have significant implications for key sectors of Canadian industry as well as for provincial governments. Canadians deserve a proper debate on our climate change strategy, one that considers not only the objectives but how best to reach them.

In this regard, can the Leader of the Government in the Senate inform us whether her government will commit to publishing its own impact analysis and regulations relating to Kyoto's implementation prior to its ratification?



**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator knows, the Government of Canada is committed to the Kyoto protocol, but it is also committed to discussions with all interested groups, and that includes the provinces, environmental groups and industry, particularly the oil and gas industry. No process of acting on this protocol will commence until those discussions have taken place.

Obviously, some of those discussions are taking place in the more public venue of the media. At the present time, some are taking place at press conferences in Moscow. The reality is that the government is committed to the objectives of the Kyoto protocol, it is committed to its agreement, and it is committed to a dialogue with the Canadian people.

The Senate adjourned during pleasure.

[Translation]

### ROYAL ASSENT

The Honourable Jack Major, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Speaker, the Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bill:

An Act in respect of criminal justice for young persons and to amend and repeal other Acts (Bill C-7, *Chapter 01*, 2002).

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

• (1510)

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a deferred answer to the oral question raised by the honourable senator Robertson, on February 5, 2002, on the Atlantic salmon fish farm industry and the competition in the United States with Chilean salmon.

### FISHERIES AND OCEANS

#### ATLANTIC SALMON FISH FARM INDUSTRY—COMPETITION IN UNITED STATES WITH CHILEAN SALMON

(Response to question raised by Hon. Brenda M. Robertson on February 5, 2002)

Canadian producers of farmed salmon are suffering financial losses as a result of unprecedented growth in the world supply of salmon, forcing prices down. Low prices

are now entrenched in Japan and the United States, the two key markets for salmon, and are likely to continue until global production levels stabilize or product demand rises.

In the short term, Fisheries and Oceans Canada is working with other federal departments and the aquaculture industry to explore the full range of options that may be available to assist concerned salmon producers during this particularly challenging period in the global market place.

In the longer term, through Fisheries and Oceans Canada's Aquaculture Action Plan, the department is undertaking a number of specific actions aimed at helping to increase industry competitiveness in global markets and public confidence that aquaculture is developing in a sustainable manner.

These actions include improving the efficiency and effectiveness of Fisheries and Oceans Canada's regulatory framework so as to help reduce the cost to producers, while upholding Fisheries and Oceans' important regulatory responsibilities relating to environmental protection and navigational safety. The Minister of Fisheries and Oceans has asked the Commissioner for Aquaculture Development to advise him on the appropriate federal role to help the Canadian aquaculture sector achieve its potential. He will report to the Minister of Fisheries and Oceans next year on a range of issues including federal support programs.

## ORDERS OF THE DAY

### CANADIAN COMMERCIAL CORPORATION ACT

BILL TO AMEND—THIRD READING DEBATE ADJOURNED

**Hon. Céline Hervieux-Payette** moved that Bill C-41, to amend the Canadian Commercial Corporation Act, be read the third time.

On motion of Senator Stratton, on behalf of Senator Meighen, debate adjourned.

[English]

### STATISTICS ACT NATIONAL ARCHIVES OF CANADA ACT

BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Lorna Milne** moved the third reading of Bill S-12, to amend the Statistics Act and the National Archives of Canada Act (census records).

She said: Honourable senators, it is with some frustration and concern that I rise this afternoon, once again, to implore you to pass this bill on third reading. If Bill S-12 is passed, individual census records for the 1906 and subsequent censuses will be released to the public through the National Archives after a 92-year waiting period, and our historic Canadian practice will continue in line with that of the rest of the westernized world.

It has taken over three years and the written support of more than 20,000 Canadians to get the bill to this stage. Those dedicated Canadians — genealogists, historians, medical researchers and families — are counting on you to unlock a substantial part of Canadian history by passing this bill.

I want to ensure that each senator knows exactly what this bill does. I will also explain to you why I passionately believe that Statistics Canada's Chief Statistician, Ivan Fellegi, should have released the records long ago. You will also hear that the legal effect of this bill is to tell Statistics Canada explicitly to take steps that it is already legally and morally required to do.

From the outset, I want honourable senators to know that this is not the course of action that I would have preferred to take. This is a question about how Canada will record its history. It is a decision that deserves the leadership and the attention of the government. There is nothing I would like more than to have the government announce that it will take the necessary steps to best balance the interests of all concerned. I still hope that this issue will be taken out of my hands. In the meantime, I feel the issue must be properly debated and addressed in both Houses of Parliament, whether or not the government will take the lead.

While the issues surrounding the release of individual census records are profound, the nuts and bolts of Bill S-12 are straightforward. The first section of the bill amends the Statistics Act by ordering Statistics Canada to preserve and store individual census records for all censuses that it takes and then to transfer control of the records to the National Archives no more than 30 years after the census date.

The second part of the bill sets out a scheme under the National Archives of Canada Act to allow for the release of that information. The National Archivist is given the power to release individual census records to the public 92 years after the date of the census. Any person who does not want their personal information released may register such a request with the National Archivist at any time during the last year before the release of the information.

Finally, the National Archivist is given the power to set up whatever specific rules and terms for the release that he believes are best.

Honourable senators, this issue first came to my attention in the fall of 1998 in what I thought was a fairly innocuous newsletter that I received from the Upper Ottawa Valley Genealogical Society, of which I was a member. The newsletter raised a small red flag about a decision by Statistics Canada not to release the 1906 census returns after the standard 92-year waiting period. The newsletter noted that for many years, historians and genealogists had used individual census returns for research purposes and that this essential source of information was about to be shut off.

My first reaction was a mild concern. As a genealogist, I knew full well that census records are vital for the research of families and that to lose that source of information would cripple historic research in this country. I have used census records in my own research many times, and I have spent hours peering at blurred and scratched images on microfilm to find the critical missing

links in my analysis. Census records can only be described as mountainous haystacks of microfilm full of millions of golden needles. One cannot measure their importance to Canadian history; they are invaluable.

• (1520)

This mild concern was tempered by my instincts as a parliamentarian. This seems, at first glance, to be a classic example of a government oversight, just a hiccup in the workings of government. It simply appeared that one section of a law had been misinterpreted and that the error could easily be corrected. I believed then, as I still do today, that this problem could be corrected by the government introducing a bill that explicitly sets out the relationship between Statistics Canada and the National Archives as to the census records. From a policy perspective, the cabinet should be the body to take the lead in clearly defining this relationship.

What I could not anticipate was, first, the lack of motivation on the part of the government to deal with how Canada will record its history, and, second, the complete and utter intransigence and inflexibility of the present Chief Statistician, Dr. Ivan Fellegi.

I must take the time to detail the responses of the government and Dr. Fellegi, in order to explain to you why I believe that without further action by Minister Rock there is no choice but to pass this private senator's bill. This bill should pass immediately, as there are no reasonable barriers to release individual census returns in our historic manner.

While the position taken by Statistics Canada is untenable, it is at least clear. From the outset, Dr. Fellegi has argued that the instructions given to census takers in 1906 clearly stated that Statistics Canada employees were prohibited from releasing census information. In his opinion, this constituted a perpetual promise of absolute secrecy on all Statistics Canada employees from then on. Furthermore, Dr. Fellegi argues that in 1918 the Statistics Act was amended to specifically provide for the secrecy of census information. On that basis, Statistics Canada has steadfastly refused to release the 1906 census returns, and has indicated that no other returns will ever be disclosed.

I was not convinced that the explanation provided by Statistics Canada was rational or even correct. I looked at the documentation that was provided to me, and I did a great deal of research on my own. I concluded that, at best, the legislation was unclear. There certainly was never a clear policy decision made by Parliament that would prevent the census returns from being kept as a historic record in the National Archives. All of the references to privacy were made in the context of regulations to cover the country's concerns at the time the census was taken. In fact, the same 1906 regulations that called for secrecy by the census takers of the time also announced that the documents would be stored in the archives, which were then completely public. No decision was ever made to end access to census information. Furthermore, in 1906, when the census was taken, Canadians had access to census information dating back as far as the 1666 census taken in New France by Louis XIV. If Parliament had intended to eliminate this source of historic research, it would have done so explicitly. This did not happen.



Canadians deserve clear laws that outline how the government will record the nation's history. Since I concluded that the law is vague, I introduced Bill S-15, the first incarnation of this present bill, to explicitly delineate the relationship between census information and the National Archives. Since introducing that bill in December 1999, I have been flooded with letters, e-mails and tens of thousands of petitions, a fact that all senators are well aware of by now. The debate that followed led Minister John Manley, the minister in charge of Statistics Canada at that time, to appoint an expert panel to research the issue. I thought it was leading to a compromise solution that seemed to bring Statistics Canada and the Privacy Commissioner on board.

The expert panel appointed by Minister Manley included former Supreme Court Justice Gerard La Forest and the Honourable Lorna Marsden — who is well known to most honourable senators, judging by the number of times I am called her name. The analysis and recommendations that were provided in the panel's report were crystal clear. It stated that there is no legal impediment to releasing the census information, even without amending current laws. Specifically, the panel said, and I quote:

...we are persuaded that the perpetual confidentiality was not likely either assumed or intended by lawmakers....While we find the legal situation ambiguous, we find no convincing evidence that Parliament intended to create perpetual confidentiality.

In its conclusions, the panel recommended the immediate release of the 1906 census, and the release of the 1911 census in due course. Finally, the panel noted that for all censuses taken after 1918 there should be legislation put into place "for greater clarity" to allow the release of information.

While the expert panel was doing the work that led to the release of its report in December 2000, at Minister Manley's request I was working with the National Archivist, the Privacy Commissioner, the Access to Information Commissioner and Dr. Fellegi to come up with a compromise solution. In August 2000, an agreement was cobbled together. Unfortunately, that agreement was heavily bureaucratic. It involved peer reviews of research projects and the signing of a waiver form every time a researcher wanted to review reels of census film. It left ownership of the census in the hands of Statistics Canada, not the National Archives. The compromise left doubt about the breadth of access that genealogical researchers would have to the census information. It received my grudging support and the rather qualified support of the National Archivist simply because it got something accomplished. Any person willing to cut through some red tape would be allowed to complete their research. At the time, I believed that Dr. Fellegi had made a move, and that move was better than nothing. I left that meeting in August 2000, confident that the government and Statistics Canada would take steps to get the ball rolling on a compromise.

In September 2000, Parliament was dissolved and along with it went the compromise solution and my hopes for government legislation.

After the election, Dr. Fellegi was no longer interested in following through with a compromise solution and announced that the issue needed more study to determine what Canadians really thought. As a result, I reintroduced my bill, which is now before the Senate. For months, I did not hear one word out of Dr. Fellegi, and it was not until this bill was before the Standing Senate Committee on Social Affairs, Science and Technology, that he finally resurfaced. That resurfacing lasted only long enough for him to say that he would be out of the country and that he would send his deputy to testify at the committee.

During the hearings, the Assistant Chief Statistician, Michael Sheridan, announced that Statistics Canada would be holding town hall meetings and focus groups on the issue of the release of census information, and implored the Senate to defeat this bill and allow Statistics Canada to go about its own affairs.

**Some Hon. Senators:** Hear, hear!

**Senator Milne:** I was somewhat surprised to hear this announcement. I certainly had not heard about any town hall meetings or focus groups beforehand, nor had any of the members of the expert panel who studied this issue or any of the members of the Census Canada Committee that had been campaigning for the release of the information.

The town hall meetings were conducted fairly and properly by Environics Research this past December and January. These sessions were held in 10 cities across Canada; 157 people took part. Even by Olympic standards, the score was decisive: 151 people argued for the release of census records; 6 argued against it.

**Some Hon. Senators:** Hear, hear!

• (1530)

**Senator Milne:** Fully 96 per cent of those participating in the hearings called for the release of the records. Even a figure skating judge could see that Canadians want the records released. One privacy expert, Mr. Murray Long, co-author of the *Canadian Law Privacy Handbook*, supported the release of post-1901 census records in his presentation to the town hall meetings. Mr. Long said:

In the case of the 1906 and the 1911 census information, I am satisfied that there is no privacy or confidentiality issue that would stand in the way of the release of this information to the National Archives and to the public.

I note that Environics Canada specifically invited Mr. Long to take part in the town hall meetings as an expert on privacy. Even those who were invited to express the opposing view agreed that the information should be released.



Honourable senators, we do not yet know what happened in the focus groups that were commissioned by Statistics Canada, but the information that resulted went, I assume, to Statistics Canada and has not been released. However, the documents that Statistics Canada used to tender the contract suggest that the feedback from the focus groups may be deeply flawed. In those documents, Statistics Canada made the following three assertions:

1. An important change occurred starting with the 1906 census. Indefinite confidentiality protection of identifiable census records was promised to Canadians when census information was collected from them.

Wrong.

2. To release the 1906 or subsequent census records at this time would mean changing retroactively the conditions under which information was provided by Canadians.

Wrong.

3. Even when a person is deceased, the provisions are still in effect.

Honourable senators, none of these three assertions have ever been accepted by Canada's historical, genealogical or legal communities. To the extent that the focus groups were based on this false information, the process will not add anything to the debate on this important issue.

The announcement of the town hall meetings caused quite a stir, but it was nothing compared to the land mine that the Social Affairs Committee unearthed as a result of the requests for information that it made as part of its study of Bill S-12. The committee asked that Statistics Canada provide to it copies of the legal opinions that it has been relying on to prevent the release of the 1906 census. Those opinions show that Statistics Canada has been told that in order to comply with the law as it exists today, they must release the 1906 census records. Furthermore, the documents show that Statistics Canada has been intentionally disregarding the will of Parliament by withholding this crucial component of Canadian history.

I wish to take a moment to share with honourable senators some of the legal advice that Statistics Canada has received on this issue. The bulk of the legal opinions were written by the Department of Justice for Statistics Canada. In a report to Statistics Canada in August 2000, Ms Ann Chaplin of the Department of Justice was quite clear in her conclusions. She said:

...it is difficult to reconcile the existence of provisions dealing with the transfer of historic information in the NACA —

— the National Archives of Canada Act —

— and the release of census information under the Privacy Regulations with the notion that post-1918 census information must remain forever in the custody of Statistics Canada.

[ Senator Milne ]

She goes on to note:

The rational approach to the various pieces of legislation at play here seems to be one which would prohibit census workers from giving anyone access to individual returns but which would allow census information to be transferred to the Archives and, after 92 years, released in accordance with the Privacy Regulations.

Statistics Canada has had this legal advice, and they have refused to act on it.

The key difference between the legal analysis of August 2000 and those of the other reports that date as far back as 1979 is the consideration of the provisions that referred to the census as a permanent record to be deposited in the National Archives. All 10 analyses found that the regulations for the 1906 census and the 1911 census have the force of law today and that under the Interpretation Act those regulations were still in effect. It is only the most recent report of August 2000, however, that includes an analysis of those statutes and regulations that suggest that Parliament's intent was to have the census information stored in the National Archives. The only conclusion that I can draw from that fact is that the legal authors of the earlier reports did not find, or were not told, of that important section of the regulations. As such, one cannot conclude that the pre-2000 legal opinions are relevant, as they are not based on all of the relevant regulations. The only complete legal analysis that has been undertaken advises Statistics Canada to release the 1906 and the 1911 census information.

The legal reports also show that as early as May 1981, more than 20 years ago, Dr. Ivan Fellegi was informed by the Department of Justice in that year that Statistics Canada should release the 1906 census and the 1911 census. In fact, while debate on the new Privacy Act was ongoing in the House of Commons, Dr. Fellegi was briefed on the impact that the legislation would have on the release of census information. Dr. Fellegi was told:

The bill is designed to give greater access to government records and the government has taken the position that the spirit and intent should be followed by government departments....By not relying on section 19 of the Access to Information Act, and giving full weight to the permissive exceptions in section 8 of the Privacy Act, Statistics Canada would be showing the utmost good faith in carrying out the will of Parliament.

There can be no doubt that Statistics Canada was informed that once the principles of the new Privacy Act were enshrined in law, it should follow them by allowing for the release of the census.

After analyzing the 10 different opinions, I have no doubt that the individual census returns for 1906 and 1911 should be released to the public. There is no credible legal opinion that has been released by Statistics Canada that can justify withholding these records from the National Archivist. As the National Archivist has already made a request for the records, the only conclusion that can be drawn is that Statistics Canada is breaking the law by failing to release the information. Bill S-12 attempts to bring the matter to a head and to force Statistics Canada to comply with the laws of the land.

Honourable senators, notwithstanding all of the legal reports and the different interpretations of what kind of guarantees were given to Canadians in 1906 and subsequent years, the overriding issue in this bill is this: How will Canada record its history? The lives of Canada's politicians, entertainers, scientists and sports heroes, like our own Senator Mahovlich, are all well documented. I believe, though, that Canada's history is about all of us — ordinary people. Each Canadian has contributed in his or her own way to make this country great, and past Canadians' contributions are no less important simply because they were not famous. The only record that we have of all Canadians in their family groups is the census. It is crucial that the National Archives have access to these records so that it can fulfil its responsibility to record the history of Canadians.

Honourable senators, there are two places where the institutional memory of this country is kept: one is the National Archives and the other is this place. I know that all honourable senators believe that even though we may not share the media spotlight with our colleagues in the other place, we still make vital contributions to the greatest debates of our time.

I implore all honourable senators to reflect on how our collective institutional memory enhances Canada's public life.

• (1540)

Honourable senators, I hope you will see that all this bill asks is that you give individual Canadians the same safeguarded spot in Canada's institutional memory, and indeed, in our country's history, by transferring the only record that exists of Canada's families to our National Archives.

**Hon. John Lynch-Staunton (Leader of the Opposition):** If I may, I have one question, and depending on the answer, a comment.

Did I understand Senator Milne to say that in her bill all information given in censuses will be made public after a certain period of time? Is that correct?

**Senator Milne:** That is correct. Information will be made public after 92 years.

**Senator Lynch-Staunton:** Honourable senators, that bothers me because the long form continues to grow and to ask for more and more information of a delicate nature, shall we say, such as sexual orientation, certain financial information and other information that I do not think is essential to genealogists and historians for whom the honourable senator is pleading.

Second, on the long, as on the short form, the word "confidential" appears repeatedly. I have always assumed that meant perpetual confidentiality. Nowhere does it say on either the short form or long form of the last census that confidentiality will be limited or that Parliament reserves the right to intervene and challenge it, or, in effect, erase it.

I have trouble with Senator Milne's bill. First, there is more and more information being given in the census that is far

beyond the traditional census of name, address, number of children, and so forth. Second, the word "confidentiality" appears on the forms. Senator Milne's bill will, in effect, negate that "confidentiality."

That would make some of us less enthusiastic to complete parts of the long form, knowing that eventually embarrassing or delicate information will be made public to the possible embarrassment of family members, no matter how many years later that information is released.

**Senator Milne:** If the honourable senator has posed that as a question, I would be delighted to respond.

Senator Lynch-Staunton is quite right. Statistics Canada now asks very intrusive questions. They are probably not any more intrusive than is already released to private companies through your credit card. They are certainly not any more intrusive than that released by the law of the land when a will is probated and made public. Every single penny that a person owned and passed on is always made public.

Any transaction that has to deal with land transfer is made public at record offices in the country. Information regarding the size of a mortgage on your house, when you paid it, to whom you paid it and when you finally paid it off is also available.

The questions on the census were basically unchanged until the long forms and the short forms were created in the 1960s. The 1961 census information would not be released until 2053. I strongly suspect that long before the year 2053 there will be further census bills that will deal with that issue.

I am basically concerned at this point with the census records that were taken and written in a ledger. When the census changed to being an individual form for each household, it became a much different matter, and it will require a different solution. That is a long time in the future.

The census records about which I am concerned for release contain the names of family after family written line after line in an old ledger. These are the ones that I believe should be released and should continue to be released in our historic fashion.

If we took this retrogressive step to make census information secret forever, Canada would be the only country in the westernized democracies of the world to take such a step. Every other democratic country in the world is moving in the other direction to make their records available. The people of the country have bought and paid for the census. They own the right to ensure that they remain in the public record and that that information is eventually opened to the public.

**Hon. Gerald J. Comeau:** Honourable senators, when I fill out the census questions that I am asked, I fill them all out to the best of my ability because I think that that information is important to Statistics Canada to make important decisions on behalf of Canadians.



To date, I have been given the impression, from what I read in the instructions and from the assurances provided by census takers who come to my home, that this was confidential information not to be made public.

I have just heard Senator Milne make the case that the census information should be made public because it is a taxpayer-funded operation. This is not the impression to date that I have been given either by the forms or by the census takers.

I was listening carefully as the honourable senator was going through the bill. As I understand it, we could only object to the release of information in the year of the release of the census. That is, we could only object in 92 years.

Why not amend the bill in order that people who wish to provide this information to Statistics Canada could indicate on the form that they object and do not want the information to be made public. Provide people the option to put on the form right now that their census information not be made public. Otherwise, the promise that the government made at the time of the census, and has been making to all of us over all the years of our filling out census forms, becomes absolutely worthless. It is a paper promise allowing that since Senator Milne wants this information to be made public, the promise that this will be kept confidential is to be lost.

I am suggesting to you that Senator Milne's bill should be amended so that those of us who object can say to the government, "No, this information is to be kept confidential. We do not wish this information to be made public."

**Senator Milne:** Honourable senators, I have a great deal of sympathy with what Senator Comeau has said. I am not a legal drafter. I have done the best that I could in an effort, I think as I have told honourable senators, deliberately to force the government's hand. I believe that this matter is so important that the government should be bringing in a government bill. This should not be left to a private member's bill, either in the House of Commons or in the Senate.

This is an important issue. It should be properly debated. The bill should be properly drafted and developed.

However, the honourable senator spoke of a promise that is given to Canadians of confidentiality. That never, ever was mentioned on any of the census takers' information that I have come across up until the time that the individual form was introduced. That was the first point at which a person had a form in hand to be read. Before that it was always someone sitting down at your kitchen table writing things down. They never volunteered that information unless they were specifically asked. They were, themselves, sworn to secrecy so that they would not go down the street and tell your business to your neighbours.

The original intent, I am sure, of the secrecy provisions was to ensure that the census takers of the time did not go discussing your private business up and down the road with all of your neighbours. That confidentiality provision was not intended to be, I believe quite firmly, in perpetuity. That was why the 92-year

provision came in. Confidentiality is provided for in the Privacy Act and in the Access to Information Act.

Honourable senators, it is important that this issue be debated here.

**Senator Comeau:** Agreed.

• (1550)

**Senator Milne:** It is very important that this issue be debated in the House of Commons and I am hoping that the government will act as it should. This is an issue that is of vast importance to the future of Canada. It is an issue of importance to how we record our history and how that history is seen in the future. It should not be up to a private member of either House of this great place to have to bring in this kind of bill. However, due to the lack of action by the government I am doing so. I ask honourable senators to pass this bill so that we can get it to the House of Commons so it can be debated on the floor of the House of Commons. This is very important.

**Senator Comeau:** I was told last week that there is a form being passed around at this time of year that is supposed to be completed by the end of February. It deals with the revenues and expenses of Canadians over the past year so that Census Canada can provide advice to government on buying trends and so on. I was approached by a local constituent in regard to filling out the form, and whether he was required to fill it out, and I advised him that he absolutely should fill it out because it is important for Canada to be able to have this kind of information to make proper decisions.

If Bill S-12 were to pass, I would seriously reconsider the type of advice that I give to Canadians on this important information that is being requested from Canadians. I am concerned about the kind of confidentiality that is being offered to Canadians if, with passage of this bill, the government can unilaterally go back and retroactively break promises made back in those days. I have read the legislation. It is quite clear that the undertaking was that this information would not be made public. I invite honourable senators to read the legislation because that is quite clear.

If we are now telling Canadians that it is unclear, they are all dead now so they cannot complain and we can break the promise now because these Canadians are dead, then that is not the way we should be conducting our census. We must be very careful what we do with this. Breaking a promise retroactively can hurt us in the future for collecting proper information because Canadians will simply not want to provide any information. I would be among those Canadians who would not provide the information if an undertaking made to me by my government were to be broken in the future.

**Senator Milne:** Statistics Canada is constantly doing surveys. My bill applies only to the census information. The survey is now done every five years — back then it was every 10 — and it identifies every single family and every single person in Canada. I am not concerned about all these studies that are done in between the statistical compilations that they are constantly doing.



**Senator Comeau:** I am.

**Senator Milne:** I agree with the honourable senator that Statistics Canada is probably one of the finest statistics organizations in the world. It has a wonderful reputation. I do not for one single minute wish to interfere with people answering those questions. It is important that Canadians do so. In the past, there has never once been a complaint about the release of historic census information.

**Senator Comeau:** They are all dead.

**Senator Milne:** In the United States, where the information is released after 70 years, and Great Britain, not one complaint has been received over all these years. Canadians deserve to have their history kept.

**Hon. Joan Fraser:** First, I should like to congratulate Senator Milne for her extraordinary tenacity on this matter, and her very impressive work. As I have been listening to the questions put to her, it has occurred to me to think about the case of Great Britain. The questions that are being raised go to serious issues of confidentiality and intrusiveness. I suspect it would probably be fairly true to suggest that the British are as cherishing of their private lives as any people anywhere, certainly in the Western world. Yet the British census results recently went up on the Internet for anyone, not just someone who went to the national archives, not just a citizen of Britain, to look up. Apparently it has been a wild success. There have been enormous numbers of requests for information.

I am wondering if the honourable knows what kind of debate might have preceded that decision on the part of the British statistical authorities and whether there was any objection to it, or did the privacy-loving British just say it was a wonderful thing to do?

**Senator Milne:** I thank the honourable senator for her question. I must say that I am not aware of the debate that went on in the United Kingdom. The British release their results after 100 years, always have done so, and intend to carry on in that fashion. This information has been released in the form of microfilm. They have taken it one step further and put the information on the Internet. The British were expecting, I believe, something like 1 million hits a day. Just to make absolutely certain that they had enough background capacity built into the system, the system was set up to deal with 1.5 million hits a day. They have been getting 30 million hits a day. That means that 30 million people are looking for their ancestors in Britain in one day. The site was overwhelmed and had to be closed down. The British are redoing the entire site, which will soon be open again to handle 30 million requests a day.

**Hon. Nicholas W. Taylor:** My question follows on the comments of Senator Comeau and Senator Fraser.

I am somewhat bothered that we have a contract with the dead, you might say. I was interested in the honourable senator's

answer that most people are interested in their ancestors. The large number of hits to the site might indicate that everyone is interested in the other guy's ancestors; you never know. I do not know what they will do with the information.

The fact of the matter is that I believe, as Senator Comeau said, and I wanted to ask Senator Milne this question, there is an implied contract at least. As you say, 90 years is a long time even for a senator to wait to complain. Was there an amendment suggested to your committee that the present Senate could be split into two — those things you want people to learn about 90 years from now and those things you did not want people to learn about 90 years from now? In that way, the contract would be more or less honoured in the way Senator Comeau has suggested.

**Senator Milne:** I strongly suspect that what the honourable senator means is the long form versus the short form. Every long form — and I have been praying to get a long form and have never yet received one — contains the same questions at the beginning. I suspect that long before 92 years after the first long forms came out there will be some sort of provision made that the rest of those questions will be removed. It would not bother me a bit.

**Hon. Gerry St. Germain:** Senator Milne spoke about the lists and the ledgers. I imagine these were handwritten. Can the honourable senator tell us whether the confidentiality aspect was given to those people at that time? If that is the only group my honourable friend is really concerned about, why not restrict it to that group?

• (1600)

**Senator Milne:** I am not sure which group Senator St. Germain is speaking of. The writing was always done by the census takers, not by the person giving the information. They sat down at the kitchen table and the census taker asked the questions and filled in the form. The census takers were specifically told to ensure that their handwriting was legible because this information would be stored in the National Archives of Canada. That is all I am asking.

**Hon. Lowell Murray:** Honourable senators, before proposing the adjournment of this debate, I should like to make a few comments.

I share Senator Fraser's admiration for Senator Milne's tenacity on this matter. I am glad to see that the issue is coming to a head here in the Senate. I will not delay it unduly, but I will return to the third reading debate in due course.

I trust that Senator Milne will respect and understand the concern of people, not only on this side of the chamber but elsewhere in the country, that this bill goes far beyond what is necessary for its stated purposes and, in my view, far beyond what is desirable in terms of public policy. I will return to this matter later.

Reference has been made to the practice in other countries. Senator Fraser raised the question of what is done in the United Kingdom. I cannot enlighten her in that regard. I can tell her, however, that Australia, our sister country in the Commonwealth, a country we both know, having visited there together last spring, provides exactly what Senator Comeau was talking about earlier — that is, a consent form on the census form through which the person being enumerated may sign off that he or she has no objections to the release in due time of the personal information contained therein.

It is not my responsibility to defend the Chief Statistician, Mr. Fellegi. That will be the responsibility of the government. Nevertheless, he is an able and respected senior public servant and, as Senator Milne has properly noted, he runs an agency that is admired and respected all over the world.

Senator Milne has delivered quite an indictment of Mr. Fellegi, questioning his good faith, if not his integrity. I simply want to flag that factor for the benefit of honourable senators. I believe that Mr. Fellegi must be given an opportunity to reply to the statements made in this third reading debate by Senator Milne about him, and we should consider how that should be done. We may want to spend some time in Committee of the Whole in order to give him the opportunity to reply, if he wishes, to her allegations.

A number of points came up in the interesting questions and replies from several honourable senators. Apropos the reference by both the Leader of the Opposition and Senator Comeau to whether a promise of confidentiality is perpetual, eternal, et cetera, or whether it is just a temporary matter, the Privacy Commissioner had something to say about that when he appeared before the Standing Senate Committee on Social Affairs, Science and Technology. Referring exactly to the point that Senator Comeau and Senator Lynch-Staunton raised, he said:

Senator Milne also appears to agree with the expert panel on access to historical census records that the promise of confidentiality can be disregarded because, in the words of the panel, words like "perpetual," "eternal" or "forever" were used neither in the legislation nor in the more colloquial instruction to enumerators and are never found in the debates.

What this amounts to is saying that a promise should be assumed to be temporary unless it is specified to be permanent. I consider this premise to be untenable in both law and common sense. A promise is perpetual unless it is specified not to be. No system of contracts — and what we are talking about is a contract between the government and the governed — could survive without this basic principle.

Somewhat later in his testimony, Mr. Radwanski said:

Most importantly...this bill would make a mockery of the principle of consent, imputing consent retroactively where it cannot possibly be considered to have been given either implicitly or explicitly.

That is one of the points that Senator Lynch-Staunton raised.

[ Senator Murray ]

I will stop there, honourable senators, because I think that gives you something of the flavour of the testimony before the Social Affairs Committee when it considered this bill.

My friend Senator Milne referred to various views, and believe I followed her carefully, but she made no mention at all of the testimony of Mr. Radwanski. I presume that she was waiting for me or some other senator on this side to do so, and we will, of course, oblige her.

Before I sit down, I should mention, apropos the statement made when I began — namely, that this goes well beyond what is necessary for the stated purposes of the bill — that the Privacy Commissioner and the Chief Statistician of Canada have signed off on a compromise proposal. As the commissioner observed in his testimony, this bill goes well beyond that.

My view is that we should not pass this bill as it stands, but for one, am very open to a compromise proposal of the kind to which Mr. Radwanski referred.

Honourable senators, I will continue my remarks on another day.

On motion of Senator Murray, debate adjourned.

## FIRST NATIONS SELF-GOVERNMENT RECOGNITION BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Gerry St. Germain** moved the second reading of Bill S-38, declaring the Crown's recognition of self-government for the First Nations of Canada.

He said: Honourable senators, it gives me great pleasure to rise today to begin the debate at second reading of Bill S-38. I must begin by giving credit to the late Senator Walter Twinn who, a number of years ago, introduced a bill in the Senate that provided a mechanism for certain First Nations to achieve a measure of self-governing authority. This bill builds upon the basic idea at the foundation of Senator Twinn's initiative in a way that I believe is positive for all First Nations with a land base who seek an alternate route to becoming self-governing. This is the foundation only. It is all about the enabling aspect and the affordability.

Bill S-38 provides a route that does not involve the protracted negotiations we witnessed recently with the Nisga'a and other First Nations who wish to become self-governing but have only the Constitution to follow, the route followed by the Nisga'a.

This is an important point to recognize and acknowledge. If one were to look at every agreement concluded in recent times, one could not escape noticing one simple fact of reality — the fact of time. Agreements cost too much money and they take far too long to conclude. This is time and money that could be put to far better use in meeting the needs of education, housing, health, poverty, clean water, et cetera, for our native peoples.



• (1610)

Simply put, Bill S-38 provides for First Nations with a land base, being those with a reserve or those who have settled a land claims agreement or possess and occupy treaty lands, a method to achieve self-government in a timely fashion through a process controlled by First Nations themselves.

Before I get into some of the details of this bill, I wish to acknowledge the work that has preceded this bill on the subject of First Nations self-government. With the inclusion of section 35 in the Constitution Act, 1982, and with the constitutional amendment of 1983, which added sections 35(3), 35(4) and 35.1, it became clear that governments at all levels in Canada would have to acknowledge the reality of Aboriginal self-government as an "existing Aboriginal right which was recognized and affirmed" in the Constitution of Canada.

The Aboriginal right of self-government exists by virtue of the fact that Aboriginal people were living in self-governing communities before the arrival of the Europeans. The constitutional amendment was quickly followed by an in-depth study by a House of Commons committee chaired by Keith Penner, M.P., on the subject of Indian self-government. That committee was remarkable in a number of ways. It included *ex officio* or liaison members, representatives of both status and non-status Indian groups, as well as a representative of the Native Women's Association of Canada.

While the committee recommended full constitutional recognition of self-government and that Indian First Nation governments would form a distinct third order of government in Canada, it also recommended that, until that occurred, alternative methods of achieving self-governing status be explored by governments and by Indian nations.

The first attempt at achieving this goal came in the form of a bill, Bill C-52, which was introduced in June, 1984, by John Munro, then Minister of Indian Affairs and Northern Development. Bill C-52 was entitled: "An Act relating to self-government for Indian nations." In many aspects, Bill C-52 was remarkably similar to the one we are now dealing with at second reading stage. The last whereas clause of Bill C-52 touched on that similarity. It stated:

And whereas Parliament and the Government of Canada are committed to continuing and strengthening Indian governments on lands reserved for the Indians by providing for the recognition of the constitutions of Indian nations and the powers of their governments.

This is the basic premise of Bill S-38 now before us. Bill C-52 died on the Order Paper with the prorogation of Parliament for the 1984 general election.

Throughout the latter period of the 1980s, a number of self-government agreements were entered into with various

native groups with delegated legislative authority as their basis. As most of us are aware, had the Charlottetown Agreement been brought into effect in 1992, a new section 35.1 of the Constitution would have recognized that the Aboriginal peoples of Canada have the inherent right of self-government within Canada. However, prior to both the rise and the fall of the Charlottetown Agreement, the Mulroney government established the Royal Commission on Aboriginal Peoples, which presented its report in October 1996.

In its volume on governance structures, the Royal Commission stated:

It must be recognized that Aboriginal peoples have a right to fashion their own destiny and control their own governments, lands and resources. They constitute nations, with an inherent right to self-government. The federal government should undertake to deal with them as such. This would pave the way for genuine reconciliation and enable Aboriginal people to embrace with confidence dual citizenship in an Aboriginal nation and in Canada.

To its credit, this Liberal government has attempted to act on these words. For example, even prior to the release of the RCAP report, the Minister of Indian Affairs and Northern Development, in conjunction with the Federal Interlocutor for Metis and Non-Status Indians, released a policy paper entitled, "Aboriginal Self-government: The Government of Canada's approach to implementation of the inherent right and the negotiation of Aboriginal self-government." This paper includes the subjects for negotiation and law-making authority, matters that are remarkably similar to those contained in Bill S-38. A detailed review of this document illustrates that while the vehicle chosen by the government to enable self-government to come into effect is different than the methods set out in Bill S-38, the end result is virtually the same.

The same can be said of this Liberal government's response to RCAP, the government's document entitled, "Gathering Strength: Canada's Aboriginal Action Plan."

I spent some time, honourable senators, on the historical foundation of Bill S-38 because I believe it is important to show that both the present Liberal government and the previous Conservative government moved in the same direction on this matter. They moved toward a mechanism under which Aboriginal self-government could be realized. The genius of the bill before us today is that while it builds on all of the work done since 1982 in the area of self-government it offers to the First Nations who wish to use it — and, I repeat, for those who wish to use it — an alternate route to virtually the same end — self-government.

As I travel across this country meeting with Indian groups, and especially as I travel throughout my home province of British Columbia, I am told of the frustrations faced by them with the present method of achieving self-government. Long, protracted negotiations create resentment in Aboriginal communities.



Bill S-38 offers an alternate route to self-government. The bill contains a detailed purpose clause, which is to recognize the inherent rights and the powers of the indigenous peoples of Canada to govern themselves and their land and to enable those peoples to exercise the jurisdiction and powers inherent in their status as self-governing entities.

Bill S-38 establishes a process for the achievement of self-government, controlled by First Nations themselves. It applies to those who have a land base, land acquired through the reserve system, lands acquired after the First Nations come under this bill, or treaty lands or lands acquired in a land claims settlement.

A First Nation elects to come under this bill by way of a referendum put before its electors. The referendum includes the constitution of the First Nation, which provides for a number of matters, including accountability and law-making authority. The bill sets out in detail the legislative powers of the First Nation. Generally speaking, federal and provincial laws not inconsistent with the First Nation laws are applicable. This is not unlike previous agreements.

The self-government proposal to be voted upon must contain, among other things, details of the lands, the treaties and agreements and the resources of the community. It must include a constitution that outlines a citizenship code, governing body, how laws are to be made, the financial reporting system, process of amendment, rights of interests in lands and other relevant matters, including any restrictions on the law-making jurisdiction of the First Nation's governing body. A vote of more than 50 per cent of all the electors brings the community under this bill.

The First Nation has perpetual succession and the capacity of a natural person.

The First Nation is recognized as having the power to make laws in relation to the autonomy, protection and stewardship of the First Nation and its territory.

Under this bill, absolute ownership of reserve land would pass to the First Nation.

The newly installed governing body of the First Nation may ask the federal government for a full accounting of all land transactions involving the First Nation and all monetary transactions with the First Nation.

Also, all moneys within the First Nation are to be accounted for by the governing group to the people of the First Nation. The tax-exempt status is preserved and extended to Indian corporations.

Also, any transactions to pass title to property that is on the lands of the First Nation, or any interest in this property, is void unless consent of the First Nation is obtained or there is an arrangement between the citizens of the First Nation.

The bill has a draft constitution attached to it that can be used as a template for First Nations. It deals with all the matters one would expect to find in a constitution for such a group.

[ Senator St. Germain ]

When this bill is studied in committee, we can determine whether any matters have been left out or whether the matters included need further refinement. This is not cast in stone. We must do what is right for the Aboriginal peoples of this country.

Schedule 2 of the bill lists the powers that a First Nation may wish to exercise. In many Aboriginal communities across Canada, a number of these powers are already being utilized under various agreements.

• (1620)

The drafting of this bill began in earnest last summer. I was able to assemble a first-class group, many of whom hold senior positions in the Aboriginal community across Canada. I am especially grateful to Professor Patrick Macklem of the University of Toronto Faculty of Law for his guidance on all these matters.

What we achieved, I believe, is self-government for Canada's First Nations people, which lies somewhere between constitutional entrenchment and delegated authority. Last year, during the summer and fall, I met with many First Nations groups who were enthusiastic in their support of this alternative means to achieve self-government.

I look forward to discussions of this bill in this chamber and its review by the Standing Senate Committee on Aboriginal Peoples. Honourable senators, if we do nothing, we will continue to err as we have in dealing with our Aboriginal peoples. This is an enabling, less costly and less cumbersome vehicle with which they can regain their dignity, pride and rightful honour in our society.

On motion of Senator Tkachuk, debate adjourned.

## LOUIS RIEL BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Gill, for the second reading of Bill S-35, to honour Louis Riel and the Metis People.—(*Honourable Senator St. Germain, P.C.*)

**Hon. Gerry St. Germain:** Honourable senators, I am pleased to rise in my place to speak on Bill S-35. A great deal has been written about the Metis people, and, particularly, one of our most acknowledged leaders, Louis Riel.

While I have been reading about the Metis people, the struggle they endured and still endure, and lived the struggles and endured as a Metis what they have, I learned much of what I know about the region and the people while growing up there, listening to the oral history and the stories passed down to me from my Metis ancestry. It is an absolute necessity that I rise to speak about this great Canadian hero.

The bill says its purpose is to honour Louis Riel and the Metis people by commemorating Riel's unique and historic role in the advancement and development of Confederation. It recognizes his contribution to the rights and interests of the Metis people and the people of Western Canada.

The bill also seeks acknowledgement of the arrowhead sash as the recognized symbol of the Metis people. Further, it encourages government departments to honour Riel by using his name for appropriate commemorative purposes. It is only proper that we install mechanisms to remember, praise and learn from the contributions of the Metis in building our great country.

I believe it is right to establish a day of recognition. It is right to establish symbols, and it is right to recognize and remember those individuals who played a political role in protecting the rights of their people, our heroes. Honestly, I do not believe Canada does enough to educate its people about our history, our culture and what makes us truly unique in the world.

One thing that makes this country unique is its leaders. People need leaders. They need heroes. People need leaders who have the ability to see what is going on around them, apply their knowledge and surmise what the future will bring. Leaders seek to move their people forward. They help to steer them down better roads.

The Metis were not a small and isolated group of people. They were involved throughout North America in its development. They have been brought up and created through the fur trade. The Metis established the rules of the game, so to speak, with the buffalo hunt, in which my ancestors participated. They established the Northwest Company. The Metis were the trailblazers who led explorers, missionaries and traders westward and inland. They acted as middlemen between the advancing European settlement and the native bands. They acted as interpreters when treaties with Indians were negotiated, and they fought against the annexation of the Northwest Territories to the United States of America. They existed with the other indigenous peoples long before either Canada or the United States were organized into countries.

The Metis share a claim through Aboriginal title with many Indian nations in Canada and the United States. That claim is reaffirmed in Canada through the Manitoba Act of 1870, the Dominion Lands Act and the Canada Act of 1982.

The Metis nation was instrumental in the formation of Canada and deserves special recognition for its huge contribution to the evolution of Canada. Often, these contributions have been ignored.

The Metis seek restitution and the recognition due to them for their role in building the nation. Bill S-35 seeks to accomplish part of this by recognizing one of its people's most memorable figures: Louis David Riel. Why is Riel an appropriate figure to commemorate for the Metis people? To answer this question, we must look to just before Riel came to be a public figure.

In the 1800s, the Metis were becoming a forgotten people. They were overlooked, exploited, exterminated or marginalized

out of their rights. The white community was shunning them. However, the Metis were distinct in their behaviour, attitudes and their choice of defining themselves. The Metis Nation centred in the Red River colony had become anxious about the pending annexation of Rupert's Land with the Dominion of Canada. Riel understood that the Dominion of Canada wanted to expand the country west to the Pacific. He also recognized that the original settlers of Rupert's Land were the Metis and that the new white settlers were changing their way of life. He saw that the Metis and the Indians were treated as savages and had become unwanted people on their own land. That was even prevalent when I was a young person in the province of Manitoba. Believe me, I should like to reflect further on this, but time does not allow.

Riel resolved to dedicate his life to the plight of his people. He stood up to be heard by the encroaching Canada and established a provisional government because he felt the Metis lot would be better served by uniting with Canada than with the U.S. Riel struck a deal and negotiated the entry of Manitoba into the Dominion of Canada, which culminated in the Manitoba Act of 1870.

Riel's sense of fairness for all individuals around him can never, ever be questioned. His bill of rights for the people of the Red River settlement was ahead of its time. It established a guide for peaceful, harmonious treatment of diverse individuals within the same area. The Manitoba Act provided that the land titles of those, mostly Metis, who had occupied lands in Manitoba before Confederation would be confirmed under Canadian law. It also set aside 1.4 million acres of land in Manitoba to be distributed "to the children of the half-breed heads of families." They were my ancestors.

The Metis had expected to select their children's shares of the 1.4 million acres from the vacant wooded territory fronting the rivers and streams near the occupied lands on the Red and Assiniboine Rivers. Individual entitlement was to be a quarter section of 160 acres per head. Many believed, and still do, that the Macdonald government really wanted to unlock the territory for "actual settlers."

My allotted speaking time does not allow me to recount the succession of facts, but we do know that the policy for allocation of public lands in the province of Manitoba ultimately came to include much of the original occupied territory lands of the Metis.

• (1630)

What of the 1.4 million acres held in trust for the children of heads of families? This land was supposed to be held "en bloc"; none could be sold to outsiders. To unlock this land sale to new settlers, the government devised what was called the McMicken scheme. They changed the land policy and introduced "script certificates." That is no different than what happened to the Chickasaw, the Choctaw, the Creek Nation and the Seminole Indians in the State of Oklahoma — civilized nations, where whitey stole all the land. The government said:



Let script be issued to each for their respective shares — representing at the standard rate at which the public lands are held for sale...script shall be transferable.

In reality, none of the land was to be held in trust.

By 1873, there was not one promised patent to a river lot and none of the 1.4 million acres was allotted. The script resulted in hundreds of half-breed heads of families selling their shares of land for as little as \$25.

The government's administration of the Manitoba Act did not resolve the problems of the Metis people. It was felt that the government had deliberately deprived the Metis of their lands. With the decline of the Buffalo hunt, the fur trade, poor agricultural farming results and general marginalization of the Metis, the Metis were moved further west. They had migrated to central and northern Saskatchewan, where several Metis families had settled after 1869. There, the Metis had resumed their traditional way of life.

The Canadian government policy of western expansion soon caught up to them there again. Once again, the influx of settlers and immigrants threatened their way of life. Their borders were again disappearing, their rights were no longer being respected, their lands were being taken and the government was not listening. The Northwest Rebellion of 1885 has been seen as the Metis response to the administrative policies of the Canadian government — a policy of a government insensitive to the needs of the Metis people.

The federal government's maladministration and neglect of Western grievances had caused the rebellion. The Northwest Rebellion resulted in the Metis nation being almost annihilated, scattered in all directions for many years.

Louis Riel believed in his native rights and held strong convictions on the land issue. A few days before he lost the Battle of Batoche, Riel wrote in his diary as follows:

The spirit of God made me realize the extent of the rights which the Indians possess to the land of the northwest. Yes, the extent of the Indian rights, the importance of the Indian cause are far above all other interests. People say the native stands on the edge of a chasm. It is not he who stands on the edge of a chasm; his claims are not false. They are just. The land question will soon be resolved, as it must, to his complete satisfaction. Every step the Indian takes is based on a profound step of fairness.

History has maintained, honourable senators, one consistent comment about Riel: He was an energetic leader who was sincerely interested in the welfare of his people. There is only one aspect of Bill S-35 that causes me to think a bit and be concerned. It has been a subject of consternation among some groups of Canadians for many years and for different reasons. That is whether Parliament should, 117 years later, vacate Riel's conviction for high treason.

[ Senator St. Germain ]

I believe that we are each accountable for our actions, whether they are in our personal affairs or in the course of public affairs. No one disputes that Riel was the central figure ultimately responsible for the Northwest Rebellion skirmishes that led to the unwanted deaths of Indians, Metis, white settlers and soldiers — the government. We must all stand accountable for our actions.

Whether we should recommend a pardon by adopting Bill S-35 as is or amend it by expressing some form of forgiveness deserves some serious scrutiny by the committee examining Bill S-35. I say this simply because I believe a pardon may possibly mitigate against the importance of Riel as a real hero in the development of Canada. I never want to take away from anything that he has done.

The government of Sir John A. Macdonald martyred Louis Riel, and by issuing a pardon, it may be possible that those who ignored the importance of Riel's work may now find a degree of exoneration in their mistreatment of this great Canadian hero.

The committee should spend some time reviewing Hansard — the spring and fall session of 1885 and the March 22, 1886 remarks made by Sir John Thompson, who was Attorney General, and the opposition bench.

Honourable senators, I believe Riel was a patriot for the Metis people. He was a visionary. He was compassionate and very generous. He was many things. Even when he was judged by the white community to have erred, he did so on behalf of his people. He was fighting no different than the Mandelas and the Martin Luther Kings of their day. We must recognize him for his accomplishments.

In this place, honourable senators, we must put forth a bill that properly establishes Riel's place in the making of Canada. In evoking his memory, this place must fulfil its functions as a protector of minorities and resolve outstanding matters with Canada's founding First Peoples, of which I have the honour of being a part.

It may sound strange that someone would stand, as I am, and be that proud. I am that proud. I know senators such as Senator Chalifoux, Senator Gill and others share that sense of pride in the great importance that people such as Riel played in the history of this great nation.

**Hon. Jane Cordy:** Honourable senators, I have a question for the honourable senator, if he is taking questions.

**Senator St. Germain:** Yes.

**Senator Cordy:** I thank Senator St. Germain for a very informative speech and for providing us with an historical perspective. During his speech, the honourable senator mentioned the term "script certificates" and suggested that this instrument led to the Metis people losing their lands in Manitoba. This is not a term with which I am familiar. Could the honourable senator clarify and expand upon this term for my information?



**Senator St. Germain:** Honourable senators, scripts were certificates that were produced by the Canadian Bank Note Company, which produced the currency at that time in Canada. A script certificate entitled the bearer to apply for a piece of land. The certificate could also be traded for a negotiable monetary amount. There were various denominations or acreages. Some were 160 acres in size, others were 240 acres. There was a variety of sizes. The script certificates were to be handed out to the children of the heads of families. This is where the breakdown came. This is what happened continually. This is why I was so opposed to the term "fee simple" in the Nisga'a agreement. I believe that native lands should be held in perpetuity for particular bands or a respective group of people.

In Manitoba at that time, there was a group of people that had traditionally lived off trapping and hunting. My ancestors were buffalo hunters. My father died in 1991 at the age of 86. I asked, "What is the most memorable thing, dad, that you can tell me about your youth?" He told me about the time his mother's family went on the last buffalo hunt into Assiniboia, Saskatchewan, where Senator Gustafson now farms. He told me how they had the old Red River carts and the oxen. He remembered that, although he was very young.

By virtue of being hunters and gatherers, these script certificates were handed out. They were negotiable documents for land or they could be exchanged for currency, which allowed the heads of families to trade these items rather than maintain the lands for their children.

• (16:40)

In the case of my grandfather, they did not trade on it. My grandfather farmed one of these pieces of land on the Assiniboine River that was granted by script.

I do not know if that fully explains the script process. I wonder whether it was done for the purpose of further settling the area, knowing that these people would sell their pieces of land rather than maintain them.

In the Oklahoma territory, when they discovered oil under that land, there was only one band, and I believe it was the Creek Indians, which refused to take allocations to individuals of land in fee simple. All of the other land was either fraudulently taken from them or indiscriminately sold. The rest is history. To this day, only the Creek Indians have land there. The actions of President Jackson and the exploiters and those who wanted access to the resources resulted in these people losing their lands, as did the Metis. There was huge pressure from the white settlement to move these people out.

It is quite complicated. It would be difficult to explain in one debate. Hopefully we will be able to further explore the history of our Metis people when the bill goes to committee. Many do not know the intricacies of this great contributing group of people who really settled the West, established the Province of

Manitoba through Riel, and still carry on today in numerous parts of Canada.

In Senator Chalifoux's area of northern Alberta, there were special areas designated for Metis people. However, I am not sure whether the Metis or the Indians really fully benefit, as they should, from treaty lands.

On motion of Senator Stratton, debate adjourned.

[Translation]

## NATIONAL ACADIAN DAY BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Gerald J. Comeau** moved the second reading of Bill S-37, respecting a National Acadian Day.

He said: Honourable senators, it is an honour for me to present Bill S-37, respecting a National Acadian Day. Allow me to congratulate the Honourable Senator Losier-Cool, who is in the Chair, for having taken the initiative to move this motion in the Senate to have August 15 recognized as National Acadian day.

I joined a number of other honourable senators in support of the motion and I am happy that it has been carried.

Thanks to the actions of the Honourable Senator Losier-Cool, newspapers are now reporting that there are federal ministers and a number of parliamentarians from the other place who support the resolution. There is now a good indication of support by federal parliamentarians.

Bill S-37 is simply a step to strengthen the Honourable Senator Losier-Cool's initiative on this issue. I remind my colleagues that a motion from one of the Houses of Parliament is an expression of good intention. It is not binding. The motion has neither the authority nor the power of a bill. The government has no obligation to act on it. An act, however, requires the government to fulfill the will of Parliament.

I should like to point out, honourable senators, the importance of the fact that it is the Parliament of Canada rather than the cabinet or a minister that is designating in a concrete manner this special date of August 15. A cabinet proclamation does not become law, nor does it have the symbolic value of an initiative from the House of Commons, the Senate or the Crown. A bill would have the effect of setting this date in stone, which would prevent any future cabinet from reversing the proclamation without consulting Parliament.

All parliamentarians will agree that this initiative must be honoured by parliamentarians and not by the cabinet. I hope, honourable senators, that you will support this bill.

On motion of Senator Robichaud, for Senator Losier-Cool, debate adjourned.

• (1650)

[English]

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### ELEVENTH REPORT OF COMMITTEE WITHDRAWN

The Senate proceeded to consideration of the eleventh report of Standing Committee on Internal Economy, Budgets and Administration (Senate Supplementary Estimates 2001-2002), presented in the Senate on February 7, 2002.—(*Honourable Senator Kroft*).

**Hon. Richard H. Kroft:** Honourable senators, on Thursday, February 7, the day of our last sitting, I presented the eleventh report of the Standing Committee on Internal Economy, Budgets and Administration. At that time, I asked that permission be granted for the report to be considered that day. Leave was denied, which senators have the perfect right to do. The report was then placed on the Orders of the Day for consideration today.

This report recommended the adoption of Supplementary Estimates of \$6,165,000 for the fiscal year 2001-02 as a result of the applications of the provisions of Bill C-28, which senators may recall was the Parliamentary Compensation bill. The adjustment to the statutory appropriation was intended to disclose the estimated cost of the government's contributions to the pension account for both the current and previous fiscal year, as well as the cost of the three-month salary increase relating to the previous fiscal year.

Honourable senators, I should explain that the last day for submitting Supplementary Estimates, according to Treasury Board's printing schedule, was February 11. Honourable senators may be interested to note that this limited time-frame results from the fact that it is expected that the government's Supplementary Estimates B will be tabled in the House of Commons on February 28, 2002.

It follows, then, that we have missed the opportunity to include our item in the Supplementary Estimates. I should like to underline, however, that not being included in the Supplementary Estimates is of no consequence, since the increase to the statutory appropriation was for purposes of transparency only and not to obtain spending authority. The spending authority was in effect granted in Bill C-28, passed by the House and the Senate in June of 2001. Transparency was provided at that time. In addition, the precise amount of the expenditures will be fully disclosed in the public accounts that will be tabled in the House in the fall of 2002.

Given that the window for applying for Supplementary Estimates B is now passed and that not being included in this set of Estimates is of no consequence, I will not be moving the adoption of this report. Therefore, I ask that, with leave of the Senate, the eleventh report be withdrawn and the order discharged.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted to withdraw this report from the Order Paper?

Motion agreed to and report withdrawn.

[Translation]

## BUDGET 2001

### STATEMENT BY MINISTER OF FINANCE— INQUIRY—DEBATE ADJOURNED

**Hon. John Lynch-Staunton (Leader of the Opposition)** having given notice on November 29, 2001:

That, on Tuesday, December 11, 2001, he will call the attention of the Senate to the budget to be presented by the Minister of Finance in the House of Commons on December 10, 2001.

**Hon. Roch Bolduc:** Honourable senators, in connection with the budget speech of last December, I propose to evaluate the economic picture set out by the Minister of Finance, to analyze his proposals in connection with taxation and public expenditures, and to offer my opinion on the administration of the affairs of the State and the accountability it entails.

[English]

The minister, as is his wont, attributes the positive economic development of the last few years to the actions of his government. In fact, honourable senators, the growth in Canada's GDP from 1995 to 2000 was largely due to the growth of the U.S. economy during the same period and the resulting rise in our exports to that country under the Free Trade Agreement negotiated by the Mulroney government. Moreover, the budget surpluses vaunted by the minister are, to a considerable extent, the result of the prosperity to which I have just alluded, cuts in transfers to the provinces, and the excessively high taxes maintained by the Liberal government in the last eight years. These are facts that the minister has completely failed to mention.

Honourable senators, the Minister of Finance is anticipating an economic recovery beginning in the middle of the year. I fear he is too optimistic. To those who already see a recovery in the United States, I would point out that five of the six recessions experienced since the end of the 1950s, particularly 1957, 1960, 1969, 1973, and 1981 — as a matter of fact, in all of the recessions except the one in 1989 — were, as the analysts say, double dip recessions. That is a real possibility again today, because individual and corporate debt is still very high. Moreover, there was a \$200-billion over-investment in telecommunications in 1999 and in 2000; with rare exceptions, corporate profits in the last quarter were lower than they had been; and, according to economist Yves Rabreau, the North American manufacturing sector is operating at 73 per cent of capacity, the lowest utilization rate since the 1982 recession.

Stephen Roche, of the firm Morgan Stanley, aptly points out that in 2001 there were no pay awards at the end of the year: bonuses, profit sharing and stock options for employees.

Barton Biggs adds the following:



The U.S. economy may be bottoming, but before a sustained expansion can unfold, the economic system has to purge itself of the excesses bred by prosperity. That process is underway. But it is far from complete either in the consumer sector or in capital spending.

Although those responsible for setting monetary policy have been able in the post-war period to avoid crises compatible to that of the 1930s, there is still a risk that inflation and threatened expansion may only be postponing the inevitable.

In 1933, Hayek wrote the following:

To combat the depression by a forced credit expansion is to attempt to cure the evil by the very means which brought it about.

This assertion was later confirmed by Schumpeter:

The recovery is sound only if it comes of itself.

Mr. Greenspan, a man capable of subtle distinctions, cautioned in 1996 against the danger of "irrational exuberance" with reference to the asset markets. Then, with the coming U.S. election, he fell silent and, in March 2000, seemed to fall back on the argument made by Bob Rubin, the Treasury Secretary, that perhaps the new technology had increased productivity to such an extent that "the bubble was a good one," and that the strong growth would not trigger inflation. For an economist of such vast experience, that conclusion was surprising, to say the least. Knowing the preponderant influence he has on those responsible for setting our monetary policy, I wonder how much room to manoeuvre is now left in Canada. With weak growth in 2002 and a higher unemployment rate, it will take more time for households to recover their liquidity and their confidence. Our exports to the south will continue to be lower than they were during the good years.

Since cycles do not occur at the same time here and in the United States, the negative impact was not really felt in Canada until the fall. Given the grimness of the situation, the Minister of Finance, after boasting about his accomplishments in recent years, decided that the solution was to increase public spending, in keeping with the pure Keynesian tradition of the 1960s that has long been discredited but is still so dear to the Liberals.

First, let me say a word about the fiscal option, taxation. I see that the budget plan explains once again the tax cuts announced last year for the coming years and that the minister is staying the course while taking the credit for doing so in a period of recession without putting the finances in the red. The recession that began in the spring of 2001 in the United States started to be felt here only a few months ago, although in the automobile and a few other sectors it was felt earlier, owing to the global structural problems of overcapacity. Another example is the lumber industry, where there are obvious problems with the Americans, not to mention the aeronautics industry, which is reeling from the effects of September 11, and the telecommunications industry to which I referred earlier.

The fact remains that in 2000, at 38 per cent of the GDP, our tax share was similar to that of the Germans and other Europeans with firmly rooted social-democratic traditions. We cannot aspire to emulate our neighbours under such conditions. In his budget plan, the minister tells us that in 2005 we will have a corporate tax rate of 34.6 per cent, therefore lower than the U.S. rate, while last year it was 46 per cent versus 40 per cent in the United States. The minister is forgetting one thing: He assumes a constant American rate. Such comparisons are nothing but smoke and mirrors. Incidentally, perhaps next year he can provide us with comparative figures for personal tax rates.

• (1500)

The latest information I received on this subject of personal tax rates is the following. As a percentage of the GDP, Canada ranks fourth highest, after Denmark and Sweden, among OECD countries. Also, as a percentage of GDP, taxes in Canada equal about 1.4 times that of the OECD average. In the 1999 statistics, the last ones available in Canada, personal income tax is about 14.1 per cent of GDP while in the United States it is 11.7 per cent.

In the meantime, I regret to say that no new tax reductions are planned for this year. Rather, we have a new tax on air travel, precisely at a time when the airline industry is in difficulty. Only a government can assume that increasing transportation costs will encourage people to travel more.

One last comment on tax relief. On pages 178 and 179 of the minister's budget plan, tables A1.2 and A1.3 set out the tax reductions from 2000 to 2005. I believe additional information is required for the discrepancy between various figures — for example, \$5.7 billion versus \$4.3 billion given for the same year, 2002. No doubt there is a technical explanation for this apparent variance.

With respect to microeconomic policy, the government is surprisingly silent once it steps outside areas under provincial jurisdiction, namely, health, education and municipal infrastructure. It claims to be doing a great deal in the area of research in order to promote innovation and stimulate productivity. In fact, its R&D efforts, which represent about 40 per cent of the total because 60 per cent is done by business, focus on universities and government or public research centres and are therefore confined to the federal or provincial bureaucracies. The figure for this year is \$7.4 billion. Why are we 16th on the list of OECD countries? We account for 2.5 per cent of world production, but innovative output is about 1.25 per cent of the high tech total in the world.

With such a low rate of productivity increase, it is no surprise that the Canadian dollar has lost 20 per cent since 1993, when the Liberals were elected. When the government tells us that our cost index for producing in Canada is quite advantageous in comparison to other countries, it is because we are poorer. That is the simple solution.

The government, therefore, has no proposals to relieve business of burdensome regulations, nothing to increase our share of foreign direct investment, which is declining, nothing to reverse the Canadian brain drain, especially by eliminating the capital gains tax, nothing to raise our productivity, which is 19 per cent lower than the American one, nothing to increase competitiveness in the distribution of credit, nothing to make our monopolistic national airline more competitive, except counterproductive interference in its management, nothing to promote the culture of risk capital among entrepreneurs and nothing to eliminate the underground economy, estimated at 17 per cent of GDP.

I should like to add an additional note about the GDP per capita. In 1990, we were third in the world; in 1999, we were 5th in the world; and, in 2001, we were 7th in the world. We are declining in terms of GDP per capita. In terms of world competitiveness, the same thing happens. In 1998, we were sixth; in 1999, we were eighth; and now, in 2000, we are 11th. We are still declining in competitiveness, even with the low dollar.

The minister repeats that the economic fundamentals are good. In my opinion, they are not in personal and corporate taxation; they are not in the regulatory environment; and they are not in the spending program of the government. Moreover, the government is dragging its feet on the important issue of health reform.

In the meantime, the cost of doing business is higher in Canada than in the United States. One quarter of government expenditure goes to make interest payments or to fund programs that slow down economic performance. Government programs, which in the 1960s represented 30 per cent of the GDP, now represent 40 per cent. Taxes on capital are higher than in the United States, and investors and savers are taxed more than consumers.

If we were so competitive as a national economy, why is Mr. Rock's new innovative strategy debate taking place? Economic prosperity is not achieved by crushing the agents of production.

There are no major structural changes to compare with those instituted by the Mulroney government, namely the GST and the free trade agreement with the United States.

The table on page 41 of the minister's budget plan shows that from 1991 to 2000, Canada-U.S. trade rose from \$200 billion to \$600 billion a year, that is, from 35 per cent to 65 per cent of the GDP. Therefore, as a proportion of the GDP, the value of trade almost doubled. As we know, not every politician of that period had the same vision.

I should like to look at the public expenditure component of last December's budget. The government this year has responded to economic conditions in Canada, and political conditions worldwide, with a massive increase in federal spending.

That old Keynesian reflex, discredited amongst serious analysts, continues to hound the current government, as it did the previous Liberal government of the 1970s. During those years,

[ Senator Bolduc ]

Canada and Europe tried to revitalize the economy using the same approach, and the result was higher unemployment and stagnation in productivity. What we inherited was stagflation. Japan has been using the same approach with the same results in the last 10 years. A recent study by Robson reveals that variations in public spending have no effect on employment. According to economic theory, money was supposed to multiply as if by magic of consumers decided to spend. Even tax reductions were supposed to take this route in order to stimulate overall demand.

As Jean-Luc Migué so lucidly explained, this approach presupposes that spending comes before production and growth and stimulates them. In other words, he adds, people suppose to spend or invest only in response to variation in their disposable income, so that the productivity rate of their activities has no impact on prosperity. In reality, growth and prosperity occur when production and national revenue rise. Encouraging people to spend rather than to save more of their income does nothing to increase overall production.

Instead of looking at the demand side of the equation, we must look at the supply side. What are the determinants of production? They are the incentives that motivate the engines of production to work, save, invest, innovate and take risks. That is why it is doubtful that the approach taken by the current government will lead us out of the recession.

Let us return to the 2001 budget. Ottawa's expenditures will increase by 9.7 per cent this year. While everyone is in agreement that more public money must be allocated to security this year because of the terrorist threat, a total increase of \$11 billion seems excessive, especially since there is no clear proof that it will have a positive impact on Canadian society. This \$11 billion is in addition to the \$9 billion spent in 2000. That makes for a total of nearly \$20 billion in two years. I believe the government has lost control of expenditure in view of the massive influx of revenue as a result of over taxation.

I sometimes wonder whether this is not a trap that the Prime Minister has laid for his party's leadership hopefuls. It is as if he has taken revenge on candidates who were in too much of a hurry. He put money in health, but moved the minister. He put money in innovation, but the minister is gone. He forced the Minister of Finance to spend more than he probably wished. A single exception confirms the theory: the Minister of Canadian Heritage, who got more than she needed but kept her job. I know she is formidable, but an extra \$300 million boggles the mind.

Every year, the government trots out new buzzwords, similar to what the socialists used to do. It seems to believe that these can take the place of ideas. In the past, we have been favoured with "innovative economy" and "inclusive society." This year the term is "strategic investment." What does "strategic investment" mean? It means waterworks, sewers and sections of road.

[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, regret to inform Senator Bolduc that his time has expired.



**Senator Bolduc:** Honourable senators, I seek leave to continue.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted for the honourable senator to continue?

**Some Hon. Senators:** Agreed.

[English]

**Senator Bolduc:** The government should be ashamed to step into areas of provincial jurisdiction like that. After the massive heating-oil refund last year, it might have shown more prudence or restraint. The government should be more equitable by making it possible for provinces to allow individuals to set up tax-free medical savings plans for themselves.

• (1710)

If we can have retirement savings plans to provide against a drop in income in old age and unemployment insurance to provide against the possibility of unemployment, then why can we not provide a medical savings plan and a real education savings plan?

Lastly, I should like to say a word about Africa. I have nothing against Canada's participation in the development of this continent, especially if this is done to meet our international commitments. However, over the last 30 years we have injected \$2 billion to \$3 billion per year into Third World countries through CIDA. I note that Southeast Asia, despite a 40-year recession in Japan, has performed better than Africa. It seems to me that before committing an additional half-billion dollars to that continent, as we are about to do, we should thoroughly review, on an urgent basis, the cost effectiveness of our program. We will certainly not solve the problem by increasing the GDP rate through aid expenditures. The reality of poverty in Africa is obvious, but the diagnosis of its causes is to be re-examined so that we can apply an effective solution.

Many members of the public wonder about the wisdom of certain types of public expenditures, such as funding for the National Film Board, which subsidizes films that have a clearly divisive message for Canadians; funding for the numerous CBC crews sent to cover the Winter and Summer Olympics; funding for additional RCMP officers hired to increase security, when a large percentage of those officers actually perform duties at the municipal or provincial levels, activities that could be justified in the past but are not federal priorities; and, to a very great extent, funding for marinas, pleasure boat wharves and endless other initiatives that owe their existence to the cross-Canada tours of one minister or another, the Minister of Justice, the Minister of the Environment and the Minister of Fisheries, among others. Then the Minister of Finance tells us that in 2002-2003, expenditures will increase by only 2.6 per cent. It is easy to be virtuous when temptation is far away. We will talk about this some more at the time of the next budget. The minister says that three quarters of the \$11 billion spent in 2001-2002 will be for security, transfers and pensions. In that case, why not reduce the remaining quarter?

Honourable senators, the third part of my speech will address government administration. As a member of the Standing Senate Committee on National Finance for many years, I have observed a change in the role exercised by parliamentarians in the various phases of the budgetary process, as well as a change in the accountability of the government and its management agencies. I think these changes are not for the better.

For example, the Minister of Finance delivered his budget speech a few days before the adjournment of the House. It was as if the government had decided to silence the opposition. I do not believe that such a situation would occur under any other parliamentary regime. The budget speech is the major public decision-making event of the year in terms of domestic affairs, and the government closed the shop after a two-day debate. If that is not a display of arrogance, what is it?

Honourable senators, I wish to congratulate former Minister Duhamel for the leadership he displayed as Chairman of the Special House Committee on Parliamentary Review of the Budgetary Process. There has been considerable improvement in the Treasury Board documentation submitted to Parliament in respect of ministerial priorities for next year and the evaluation of results in the fall of the following year. Those two sets of papers, together with the Estimates and the budget speech, will facilitate the role of parliamentarians in the three phases of the budget review: planning, management and control.

That being said, the priorities set by the departments and by Treasury Board should be expressed more in terms of targets than in terms of general objectives; the administrators should be more specific. The same should occur at the assessment phase. Results should be better quantified so that we can measure the positive or negative impact of the various programs. Public servants have an obligation to objectively report the good and the not-so-good aspects of their work. Let us not forget that the purpose of the exercise is to allow parliamentarians to determine the pertinence of government activity and its efficiency in terms of resource allocation.

Honourable senators, my second remark concerns government accountability. We all know that 70 per cent of budget expenditures, such as transfers to individuals and the provinces, debt servicing, international commitments and pensions for public servants are statutory. Each year a smaller percentage of the budget is subject to a review as regards the discretionary decisions of ministers. It is then of the utmost importance that government structures and management processes be transparent. It is rather curious that the number of ministers should be increasing while the proportion of public expenditure subject to review is decreasing. A Sanhedrin of 40 ministers is not a good formula for a more efficient and responsible government.

Honourable senators, the fact of the matter is that we have observed over the Liberal years the gradual erosion of transparency. Fewer and fewer government expenditures are handled by the departments, while more and more are handled by grants councils, special agencies and foundations. Partnership management tends to obscure administrative processes, and the Auditor General is not comfortable with it.

In the regular departments, there are well-established rules for the recruitment and promotion of qualified employees, and there are traditional codes of ethics. The Public Service Commission exercises control over the behaviour of employees, and clear rules are in place governing the supply of services, contracting out, purchasing and construction.

The new agencies established in recent years, including 10 foundations and even special agencies such as the Canada Customs and Revenue Agency, are specifically excluded from the jurisdiction of the government's central control agencies. How, then, is the public interest to be protected? The rules of the game are not part of their specific statute. The administrative histories of England, France, the United States and even Canada have shown that in the absence of these requirements there is an ever-present danger of patronage, arbitrary decision making and corruption. I am not comfortable with a two-tier public service. If we are not satisfied with a government organization because it is inefficient or its services are too costly, let us give it competition or privatize it.

Last December, we described in this chamber the administrative detours taken by the government to inject money into companies with no defined program that were established under the Companies Act and subsequently converted into foundations. Over \$10 billion of public money is now in the hands of boards appointed at the discretion of the government. To whom are these boards accountable? What are the qualification requirements for board members? To what extent are those requirements met? Is this a new form of bureaucracy that has been proven more efficient elsewhere?

If the administrative organization of government continues to move in that direction for a decade, we will no longer need ministers. Who will be held accountable to the House, then? Will it be the Prime Minister or the Prime Minister together with the Minister of Finance?

Only short-term patronage will be left in the hands of ministers. Perhaps the Minister of Finance thought that this was a good way to protect financial management from partisan assaults. At any rate, his answers to the Auditor General's comments are not very convincing.

I suggest, honourable senators, that you look at page 226 of the minister's budget plan. The minister switches from accrual-basis accounting to cash-basis accounting, depending on the needs of the moment, to justify his past actions. Such manipulation of the figures is extremely dangerous, and I recommend that Treasury Board officers resist unwarranted requests of this nature.

I mentioned earlier that statutory expenditures dominate our spending initiatives. If we add to those expenditures all our obligations under international treaties, for example, our participation in development banks and the IMF, labour agreements, money used by the councils to fund the arts, medical research, science and engineering, what is left for parliamentary oversight? The logic of that delegation process implies a reduction, not an increase, in the size of cabinet. No one outside

Ottawa understands the Prime Minister's logic. It may be the best proof that there has been a power shift from cabinet to the PMO.

In conclusion, honourable senators, the government must review its economic strategy to take into account for new international socio-economic trends. The population is aging, which means fewer Canadians working, more retired people and a greater need for health services. The knowledge-based economy will require more university graduates, more professionals of both sexes and possibly a variety of family arrangements. Higher incomes also mean that there will be more shareholders. The aging of the workforce will probably be offset by immigration with its attendant integration problems, changes in values and cultural shifts. Globalization means increased competition, which in turn means higher productivity if we wish to preserve our standard of living.

In 1984, Canada's productivity was 86 per cent of that of the United States; it is now 76 per cent. A major change is obviously needed in the various components of the economic policy of the Government of Canada.

**Hon. Eymard G. Corbin:** Honourable senators, I have a question for the Honourable Senator Bolduc.

**The Hon. the Speaker *pro tempore*:** Honourable senators, as Honourable Senator Bolduc's time has expired, is leave granted for one question?

**Hon. Senators:** Agreed.

[Translation]

**Senator Corbin:** Honourable senator, I have listened very carefully to the honourable senator's speech, in which he spoke of Canadian aid to the African continent. We are both members of the Standing Senate Committee on Foreign Affairs.

• (1720)

Does he not believe that this committee should finally examine the issue of Canadian aid to the third world, considering that, instead of improving things, it seems to exacerbate them? Would the honourable senator be prepared to support any motion of that type in the Standing Senate Committee on Foreign Affairs?

**Senator Bolduc:** I fully agree. I am not prepared to say that the aid we provide through various agencies such as CIDA is what causes the deterioration of Africa. However, there are related situations that deserve to be reconsidered. That was my point. This is an area we have to look at.

The sum of \$3 billion was earmarked to solve the problem, on a yearly basis. That is a lot of money. The Standing Senate Committee on National Finance is looking at equalization. This is almost one third of equalization. Obviously, poverty is a problem in Africa. I realize that it was unfortunate that Japan was in a recession, but there was a period of tremendous growth through trade. A market-driven system, which may be more or less adequate, was set up, but action was taken. Africa is, to a large extent, governed by French policy, which is said to be highly interventionist, like that of England after the war, with the result that its economic base is not sound.



In Canada and elsewhere in the world, we are creating an incredible number of jobs for products coming from Africa. This does not make sense. If there are countries that need help, it is in fact those in Africa, so that they can export their products. This will promote economic growth four times greater than with all the aid programs under the World Bank and CIDA. It is the formula used in Southeast Asia that works. I think we should make a thorough review of all this.

On motion of Senator Stratton, debate adjourned.

[English]

**ENERGY, THE ENVIRONMENT AND  
NATURAL RESOURCES**

COMMITTEE AUTHORIZED TO MEET DURING  
SITTING OF THE SENATE

Leave having been given to revert to Notices of Motions:

**Hon. Nicholas W. Taylor:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(a), I move:

That the Standing Senate Committee on Energy, the Environment and Natural Resources have power to sit at 5:30 p.m. today, even though the Senate may then be sitting, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, February 20, 2002, at 1:30 p.m.

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CANADA

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(HANSARD)

Wednesday, February 20, 2002

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THE HONOURABLE DAY HAYS  
SPEAKER



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## THE SENATE

Wednesday, February 20, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### THE LATE HONOURABLE H.A. (BUD) OLSON, P.C.

#### TRIBUTES

**The Hon. the Speaker:** Honourable senators, we begin today with tributes to our former colleague the Honourable H.A. Bud Olson, P.C., who passed away on February 14, 2002.

**Hon. Joyce Fairbairn:** Honourable senators, it is with great sadness but with warm and rollicking memories that I pay tribute today to a dear friend and former Senate colleague, Bud Olson, who died last Thursday in Medicine Hat. He was truly a great parliamentarian, a passionate patriot for Canada and perhaps one of the toughest, most knowledgeable and outspoken ambassadors of his area, of his province of Alberta and of Western Canada that I have ever known.

As a hands-on farmer and rancher, love and respect for the land was the foundation of the political career he carved out over almost 40 years. It sustained him through troubled times, it sparked his political philosophy and it undoubtedly gave him that wonderful mix of courage, honour, humour and, on occasion, mighty outrage that made him one of the most compelling speakers I have heard. Whether in a small county room or on an election platform or in his seat in the House of Commons or in the Senate, Bud commanded the attention of his listeners, whether they liked what he was saying or not. He was first attracted to the Social Credit Party, which dominated life in Alberta from 1935, when William Aberhart started a political prairie fire that was to last for 36 years. Bud was a trusted confidant and warrior with former Premier and Senator Ernest Manning, who guided our province through the excitement and the challenges of the development of the energy industry, as well as the burgeoning trade of agricultural products around the world.

Bud began a long life in Parliament in 1957, when he entered the House of Commons. As a Social Credit member, he won five elections, and as its House Leader became the strongest voice for that party in Ottawa. I met him back in 1962, when I was a new member of the Parliamentary Press Gallery. As a rookie, I learned the process from the pros. Bud Olson was one of the most outstanding debaters and procedural experts during those tough and defining years of minority governments in the 1960s. It was tough, but it was also a lot of fun.

As his party began to split up at the federal level, he chose to join the Liberal ranks and in 1968 became the first Minister of Agriculture in the government of Pierre Elliott Trudeau. The appointment could not have been a better one for the country,

but, regrettably, our party members were wiped out in the Alberta election during 1972.

Bud entered the Senate in 1977. He became Leader of the Opposition in 1979, was appointed to lead a super-cabinet ministry of economic and regional development in 1980, and he served also as Leader of the Government in this place from 1982 to 1984. This chamber really became his second home. He was vigorous in committee and comfortable in this place, where he played a very spirited role in anything to do with agriculture, the Constitution, the environment, and the list goes on.

Bud was never lost for words. In fact, he never needed a note at any point. Some of those who served in the Senate while he was with us will remember that. They will also remember that when aroused, he virtually lifted these rafters with his mighty voice and his rhetoric. It was great to hear if you were on his side of the house, but it was daunting if you were opposed.

Our Speaker, Senator Hays, and myself looked to Bud as a mentor. He was a very fine teacher. Privately, he was quiet, gentle and kind, with an infectious sense of humour. He was a tough political fighter.

As his health declined, the long trip back and forth from Southern Alberta to Ottawa took its toll. In 1996, he quietly made up his mind that it was time to go. As Leader of the Government in the Senate at that time, I was truly saddened because, in his heart, he felt that he had more left to give. He gladly accepted the role of Lieutenant-Governor of Alberta, which was offered to him by Prime Minister Chrétien.

As he left, Bud told me the one thing he wanted to do was to spend the time left to him urging his fellow Albertans, particularly young people, to recognize and take pride in the tremendous benefits of a strong and united Canada. He did so as vigorously as health would allow.

• (1340)

In 2000, Bud retired to his home in Medicine Hat with his beloved wife, Lucille. Last month they celebrated their fifty-fifth wedding anniversary. He always credited her with giving him the strength and the support that enabled him to fulfil his goals.

As everyone in this chamber knows, it is tough to maintain family life in politics, but Bud's inner devotion to his children Bud Jr., Sharon, Andrea and Juanita, was steady as a rock. At some point, our conversations always centred on his pride in his children and grandchildren.

I was in Russia last week when Bud died, and I feel as though my life has been diminished. I am grateful for all those years of friendship and support, and I will never forget the strong and generous Albertan, who truly helped to change attitudes, as one of the finest citizens in what he believed to be the finest country in the world.

We send our deepest sympathies to Lucille, to his family, and to his multitude of friends. He will not be forgotten.

**The Hon. the Speaker:** Honourable senators, it is difficult to do justice to a life like Bud Olson's in a few minutes. I am grateful to Senator Fairbairn for her words. She summarized the highlights of Bud's life and some of his personal qualities very well.

Bud Olson was a product of his environment. He was born in Lldesleigh, in the heart of the area called the Palliser Triangle, which is a difficult area to farm. It was a land of heartbreak for many. The Olson family succeeded where many did not. The land shaped him. It gave him his toughness and some of his characteristics.

Bud was described as an unorthodox, independent-minded person. He did tend to stick to a position longer than a more moderate person would have thought he should.

Bud succeeded in three areas, and Senator Fairbairn touched on them very well: his family, his greatest success; his public service; and also as a farmer.

Senator Carstairs, Senator Taylor and I attended the funeral. Bud Jr., the third child in the family, gave a wonderful eulogy to his father and captured some of Bud by recounting family conversations. Bud Jr. pointed out that when the tide turned against Bud, he would observe to the whole family, "I do not want you to be under the false impression that this family is run as a democracy." That was something he would have said.

Bud's public service was remarkable. Senator Fairbairn outlined the important positions he held, culminating in becoming the Lieutenant-Governor of Alberta. If there was one thing in his life that transcended everything, it was that he was first, last and always an Albertan and a supporter of Albertans, in particular the agricultural community of that province.

In the mid to late 1980s, we experienced some terrible droughts in Alberta and Saskatchewan, particularly in Southern Alberta. We were in opposition at the time, and Bud was pressing very hard for a program to help those in need. I can remember him saying to me, "You know, this is a serious problem that will take a billion dollars to fix." Lo and behold, the government of the day came up with a billion dollars. The next day, Bud was on his feet saying that it should be \$2 billion. That was the kind of commitment that he made to his constituents.

Finally, Bud was a farmer and rancher. He loved to farm. I do not think he was ever happier than when he told stories about farming and how much he enjoyed sitting on a combine or driving a truck to take in a good harvest, which unfortunately was not every year in the area where he farmed.

As he aged, the farm became the responsibility of Bud Jr. Those senators who have farm backgrounds will understand that fathers and sons on farms have a difficult time. That period of transition does not come easily. Bud told me a story that I think says much about him. He loved to buy machinery; he loved to

operate machinery. Every time he bought a truck or combine, he said it was one of the best deals ever made. He and Bud Jr. bought some trucks, and he was, I think in Bud Jr.'s mind, interfering too much in the operation. On a weekend he was there to help, Bud said, "Do what you want, but under no circumstances drive that truck or take it anywhere. It is not fit to drive."

As soon as Bud Jr. was out of sight, the very thing, predictably, that Bud did was to get into the truck and drive it. Also, predictably, he got a few miles away from the farm and the axle broke. The very thing that he was worried about happening did happen. The way Bud dealt with the situation is interesting. He hitched a ride, got in his car, drove to the airport, phoned Bud Jr., told him about the breakdown and got on the plane and went to Ottawa.

Bud was a great friend, and I am grateful for having known him. His passing leaves a void that can only be partially filled by the memories we have of the times we shared with him, of the stories he told, of the issues he debated, and especially of the friendship and guidance he gave.

**The Hon. David Tkachuk:** Honourable senators, I rise to say farewell to our former colleague the Honourable Horace Andrew Olson — Bud to his friends.

He served his province as a member of the House of Commons for a decade and subsequently as a member of the Senate for nearly two decades. During the course of his 30 years in Parliament, he worked on a number of committees and held the post of Minister of Agriculture for four years. He was the Leader of the Government in this chamber for two years, from 1982 to 1984, with concurrent ministerial responsibilities.

Pierre Trudeau relied on his advice, and it was Bud Olson who was given the impossible task of selling the National Energy Program in Western Canada, a tribute to his bravery and his loyalty to his party.

Bud Olson was an exemplary parliamentarian, aggressive but plain-spoken in debate, noted for his knowledge both of issues and of procedure, and bringing with him a special understanding of the problems faced by agriculture and faced by farmers, among whom he was proud to be numbered.

Bud was, along with my friend Senator Gustafson, when I arrived here in 1993, the two people I listened to when they spoke about agriculture; both former members of the House of Commons, both from the Prairies, both farmers. It was too bad that he decided to leave so early.

When Bud left the Senate in 1996 at the age of 70 — and he could have served another five years — it was to return full-time to his native province and to continue to serve the people of Alberta in a different capacity, namely as His Majesty's representative, the Lieutenant-Governor. After retiring as Alberta's fourteenth lieutenant-governor in February of 2000 and despite his failing health, he maintained his continuing interest in Canadian and world affairs.



Honourable senators, Bud's family was a very important element of his life, as those of you who knew him well know. I am certain that not only his wife and four children but his 10 grandchildren found it difficult to lose the amount of time with him that he spent with us and on his other political duties. I also know they understood, as most of our spouses and families do, that government and governing were not just jobs to him — they were a passion.

Not only did Alberta lose a distinguished son on February 14, the country he served did as well.

• (1350)

**Hon. Anne C. Cools:** Honourable senators, I rise today to join colleagues on both sides in paying tribute to the life of Senator Bud Olson, a dear friend to me in the Senate and a dear friend to all of us here, even his opponents.

Honourable senators, it pains my heart that I was unable to attend his funeral a few days ago, but I do want his friends and colleagues and family members, particularly his wife, Lucille, to know that I was there in spirit with them.

Honourable senators, I wish to send my best and warmest regards, my support and my condolences to dear Lucille and to all the family members and communicate to them that my prayers are with them.

**Hon. Willie Adams:** Honourable senators, I should like to say a few words about my colleague Senator Olson. Almost 25 years ago, four of us were appointed at the same time: Senator Bud Olson, Senator Royce Frith, Senator Peter Bosa and myself. I still remember the first time I walked into this room, and it will be 25 years ago next April 5.

Senator Fairbairn talked about Senator Olson's time as leader of the Government. I remind you that, in 1980, he was Minister of State for Economic Development and the Minister responsible for the Northern Pipeline Agency. I have memories of him travelling across Canada. At that time, 1980, there was a lot of exploration in the Western Arctic and Western Canada. He later became chairman of the Energy Committee.

Senator Frith was deputy leader in the Senate at the same time Bud Olson was Leader of the Government in the Senate. I remember Senator Bosa saying to me, "What's wrong with you and me, Willie? We were appointed at the same time, and now we have Senator Olson as leader and Senator Frith as deputy leader."

After the election of the Mulroney government, Senator Frith became Leader of the Opposition in the Senate.

I have many memories of those days. When I first came here, I did not know many people. My neighbour Senator Sparrow was here, as were Senator Graham and Senator Austin. There are a lot of new faces in the Senate now.

We lost a good friend in Senator Olson. He was concerned about exploration and used to travel quite a bit in the high Arctic. He was concerned about the Arctic and the Aboriginal people.

I extend my condolences to his family.

**Hon. Jack Austin:** Honourable senators, Senator Bud Olson was a colleague with whom I worked in this chamber for many years. He was also a seatmate for a short time — one of the most interesting persons to have as a seatmate.

Senator Olson was what I call a "legislative animal." He understood the temperature or the nature of the political process in the chamber, and he certainly understood it in cabinet and in caucus. He was a very effective person in delivering what he needed and often what he wanted, to do the job as a representative of Alberta.

Senator Olson was a real son of southern Alberta and southern Alberta's agriculture. He was brought up, as Senator Hays and Senator Fairbairn said, in that particular community, and it is a significant substratum of Alberta society. With Senator Olson, you knew that the voice for southern Alberta was authentic.

My wife's family takes some credit for his political career. He ran in 1957 against my father-in-law, Harry Veiner, who was the mayor of Medicine Hat. My father-in-law lost by a few hundred votes, and Senator Olson got on with his career, and my father-in-law got on with being mayor of Medicine Hat. He enjoyed that role. We in my family have always thought that it was a narrow escape for my father-in-law.

As a cabinet colleague, Senator Olson was wonderful to me. We had, in my day in cabinet, a serious discussion with the Province of British Columbia over an agreement dealing with Expo 86 in Vancouver. Bud Olson was at my elbow helping me with the negotiations with the Province of British Columbia. He had this famous caution, "Watch out for the tro-ins." I said, "Bud, what is a 'tro-in'?" He said, "You know, you think you have a deal, and then they say 'tro' in this this and 'tro' in that, and then we'll sign. Watch out for the 'tro-ins'." He was a very practical man, a very real man, a very sensible man.

**Hon. Marcel Prud'homme:** Honourable senators, everyone seems to have a good story about Bud Olson, so I will give you a summary of what I have written about him.

In 1967, you may recall that the Honourable Ernest C. Manning wrote a book entitled *Political Realignment* that created a great deal of discussion among Social Credit Party members in Alberta. As you know, Bud Olson was first a member of the Social Credit Party before 1957, as was pointed out by Senator Austin, not a Liberal. He was defeated in 1958 and came back in 1962, 1963 and 1965 as a Social Crediter. At that time, I happened to accompany Mr. Pearson to Klondike Days in Edmonton, Alberta. That is where Mr. Pearson was highly acclaimed, as you all remember. Mrs. Pearson was overheard saying, "Why, if they like you so much, do they not vote for you?"

On the same trip with Mr. Pearson, I met a man at the opening of the Diefenbaker Lake Dam in Saskatchewan. The man was Mr. Bert Hargrave, a great rancher. I had never met a rancher before. I thought perhaps he had a few hundred head of beef, but it ended up that he had over 5,000. He said, "Come and see it." I arrived in Medicine Hat. He said, "There is a big party for Mr. Olson. The man is really in full reflection since Manning's book on political realignment. He may go Conservative or Liberal." That was enough for me. I was a very active Liberal for a long while. I immediately called the Prime Minister's Office and said that there is a man here who is ready to swing, and maybe he can swing him to the Liberal side. Well, he did, in 1968. Our esteemed former colleague Senator Earl Hastings helped to negotiate that event. At that time, he was a young Liberal organizer in Alberta. I do not know what took place there. All I know is that Mr. Olson ran as a Liberal in 1968.

• 1100

Something took place in the agriculture industry that displeased Mr. Hargrave very much. He was the one who introduced me to Mr. Olson. Mr. Hargrave said, "If you pass that bill, I will defeat you." Guess what, Bert Hargrave, in 1972, 1974, 1979 and 1980 defeated Bud Olson.

On a special note, Mr. Olson opened up Western Canada to many of the Prud'hommes. Many members of my family are farming people. A strong, young cousin of mine said that he would love to learn English and go to work on a farm. He went to work on Mr. Olson's farm, learned English and became very well-liked by Mr. Olson.

I thank Mrs. Olson for having been almost a godmother to a cousin Prud'homme from Saint-Eustache. I thank the Olson family and I offer them my most sincere condolences. I remember all the good Senator Olson did to help some members of my family experience Western Canada while living and working on the big Olson farm.

**Hon. Nicholas W. Taylor:** Honourable senators, my tribute to Bud Olson will be anecdotal as well.

Senator Olson and I were born about 25 kilometres apart in southern Alberta, three-quarters of a century ago, in the middle of the Palliser Triangle.

For those honourable senators who may be unaware, Captain John Palliser was an explorer who came out from England and Eastern Canada in the late 1800s and took the trip from Medicine Hat to Calgary. He said that the area would never be good for anything; it was hopeless, it was a desert. We laughed at him in 1917 and we laughed at him in 1945. Outside those two times, Palliser has been right.

Bud and I were raised in the middle of the dirty thirties. We were in the midst of a drought, and even the ribs of a rattlesnake would show as it hung from the edge of a fence post.

Although we were born in close proximity, I did not meet Bud playing ball or anything like that. I first met Bud Olson in the 1957 election, when he was only 31. He took on the best debaters of the day in southern Alberta. Southern Alberta had been a hodgepodge of political beliefs. There had been a Liberal in the area by the name of Dr. Gershaw for many years before that, but the area was known to be Social Credit.

When the elections came, I used to tell Bud that people would come down from the hills with their flat black hats and their Bibles under their arms and put him in power. In 1957, Diefenbaker captured the attention of the voters and out Bud went. In the next election, Bud won the riding back for the Social Credit Party and he stayed with the Social Credit Party right up to 1967, when Mr. Pearson asked him to cross the floor.

Bud Olson was always practical in debate. He was able to take any subject and remove it from being a Liberal or Conservative issue. He was able to speak to a matter from the point of view of whether it was good for Alberta or for Alberta farmers. He was particularly able at that, although he lost the election, unfortunately, in 1972.

I took the leadership of the provincial Liberal Party in 1974 and Bud was an adviser to me through the 1970s. Sometimes I paid attention to him; sometimes I did not. When I did not, I usually got into trouble. When I paid attention, he was usually right.

At that time, the national Liberal party wanted us to merge with the provincial Social Credit Party. Much to the chagrin of the journalists, Bud and I agreed that joining with the Social Credit Party would be political necrophilia. The same thing might happen to our friends on the opposite side if they contemplate joining the Canadian Alliance. In other words, history might be repeating itself. I will let that go, as that is something members opposite will have to decide.

Sometime in the 1970s — as if living in Alberta as a Liberal was not dangerous enough — Bud took up flying lessons to become a pilot. He did fairly well in the ultra-light aircraft. Learning to fly in southern Alberta is not hard in some ways, if you have anything that has wings, you just turn and face west and the wind will carry you up in the air in no time at all. Bud was a fairly able pilot, but when his son had a crash, it frightened him, and so he gave up flying.

When Bud became Lieutenant-Governor of Alberta, I took his place in the Senate. That was six years ago. Bud had his own style and approach to things. One of the first things he did was to move the Lieutenant-Governor's levee, which was always held in Edmonton. Edmonton felt that was at least one thing they got: If Calgary had the oil business, they at least had the levee. Bud took the levee, went right over Calgary, to Medicine Hat, and held the levee down there, much to the chagrin of the Southam press who did not own a paper in Medicine Hat at the time. Bud said he planned to do things the way he saw fit.



Bud's debating skills always amazed me. Honourable senators must remember that where we went to school, there was no senior matriculation. I had to move away in order to go to university to become an engineer. Bud was smart. He did not finish high school, although he was by far the best read and most knowledgeable person in politics in the region, perhaps because he was self-taught. He always amazed me with his grasp of topics. I realize that was because he was not encumbered by too much schooling and foolishness that he would have learned like others of us who went to university.

Bud also had a finely developed sense of humour. It was quiet, but when he would roll those brown eyes, you knew something was coming.

One of Bud's characteristics that sticks in my mind is that he was never mean to anybody. He was always kind. Even in debate he might be rough with his words, but I never heard him abuse anyone working for or beside him. He was an outstanding person in that way.

I know there is little I can say or do now to ease the sense of loss for Lucille and the family. However, I do hope they take some consolation from the fact that there are literally hundreds of Canadians, and particularly Western Canadians, who believe that Canada is that much better as a country because Bud lived in it.

## SENATORS' STATEMENTS

### THE LATE MINNIE WHITE

#### TRIBUTE

**Hon. Ethel Cochrane:** Honourable senators, I rise today in tribute to one of Newfoundland and Labrador's finest musicians, Mrs. Minnie White, who recently passed away at the age of 85.

Over the course of her professional music career, she received countless awards and accolades at home, nationally and internationally.

For Newfoundlanders and Labradorians, however, she was an ambassador of traditional music and the accordion. Minnie's legacy is not only that she fostered and inspired young talent, but that she gave each of us a deeper appreciation of our roots. She skilfully blended the music of the province's four prominent cultures, English, Irish, French and Scottish, to produce strong, toe-tapping music that uniquely represented island culture. Through her dignified stage presence, Minnie White helped lead the resurgence in our province's traditional music and inspired a whole new generation to take pride in our musical heritage.

While it was with sadness that we said farewell to Newfoundland's "First Lady of the Accordion," we remain grateful for the lifetime of music that she gave and the remarkable legacy she left for generations to come.

[ Senator Taylor ]

• (1410)

[Translation]

### HEART AND STROKE AWARENESS MONTH

**Hon. Yves Morin:** Honourable senators, February is the month closest to our hearts. Health expenditures directly or indirectly related to heart disease and stroke total over \$20 billion yearly. Worse still, these diseases are the highest-ranking cause of deaths in Canada, in excess of 80,000 annually.

[English]

The truth is that heart disease and stroke have touched the lives of most Canadians.

[Translation]

Heart and Stroke Awareness Month is a good time to acknowledge the contribution of those who devote themselves to education, research, prevention and treatment of cardiac and cerebrovascular diseases.

[English]

The Canadian Institutes of Health Research, through its Institute of Circulatory and Respiratory Health, under the able direction of Scientific Director Dr. Bruce McManus from Vancouver, is working in partnership with the Heart and Stroke Foundation to support innovative research that addresses the most relevant and pressing issues.

Monday was Heart Day on the Hill. We were visited by the President of the Heart and Stroke Foundation, Ms Carolyn Brooks, and the President of the Canadian Cardiovascular Society, Dr. Ruth Collins-Nakai from Edmonton.

The Heart and Stroke Foundation is a federation of ten independent provincial foundations and one national foundation and is supported by a force of more than 250,000 volunteers across Canada. The foundation funds approximately \$40 million annually of peer-reviewed heart disease and stroke research in Canada. This represents the largest single source of funds for research in heart disease and stroke in the country.

Both the Institute of Circulatory and Respiratory Disease and the Heart and Stroke Foundation are supporting Dr. Salim Yusuf of McMaster University in Hamilton. Dr. Yusuf was responsible for the major discovery that the drug Ramipril can reduce the risk of heart attack by 25 per cent in high-risk patients. Now, in the SHARE study, he and his colleagues are looking at the links between ethnicity, risk factors and heart disease rates to find out if genetic or lifestyle differences are behind markedly different risks for heart attacks among different ethnic groups.

Dr. Yusuf and his team are part of a strong, integrated community of researchers working in almost every Canadian province to increase our knowledge about cardiovascular disease.



## [Translation]

Thanks to the knowledge contributed by research, lives can be saved and people with these conditions will be able to enjoy a better quality of life. As well, these discoveries will make it possible to better detect people at high risk and will provide Canadians with information that will help them choose a healthy lifestyle.

Honourable senators, although we each have but one heart and one voice, we can unite all of our hearts and voices in support of research and of those who are the lifeblood of an effective national health system.

## [English]

## ROUTINE PROCEEDINGS

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

## NINTH REPORT OF COMMITTEE TABLED

**Hon. Jack Austin:** Honourable senators, I have the honour to table the ninth report of the Standing Committee on Rules, Procedures and the Rights of Parliament, dealing with the revised *Rules of the Senate*.

Honourable senators, this February 2002 edition of the *Rules of the Senate* incorporates the amendments made on March 15, 2001 regarding the addition of two new committees; on September 25, 2001, regarding the name change of the Rules, Procedures and the Rights of Parliament Committee; on October 31, 2001, regarding the name change of the National Security and Defence Committee; and on December 14, 2001, regarding senators indicted and subject to judicial proceedings.

## BANKING, TRADE AND COMMERCE

## NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO EXTEND DATE OF FINAL REPORT ON STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

**Hon. E. Leo Kolber:** Honourable senators, I give notice that at the next sitting of the Senate, I will move:

That the date for the presentation by the Standing Senate Committee on Banking, Trade and Commerce of the final report on its study on the present state of the domestic and international financial system, which was authorized by the Senate on March 20, 2001, be extended to Thursday, March 27, 2003.

## QUESTION PERIOD

## NATIONAL DEFENCE

## JOINT TASK FORCE 2—AUTHORIZATION OF COUNTER-TERRORIST OPERATIONS

**Hon. J. Michael Forrestall:** Honourable senators, my question is with regard to Joint Task Force 2. Can the Leader of

the Government in the Senate tell us exactly who is charged with authorizing JTF2 to engage in counter-terrorist operations? Does authorization to use deadly force rest only with the Minister of National Defence or does it rest solely with the Prime Minister?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senator, as do all members of our armed forces, Joint Task Force 2 take their immediate orders from line of command, but ultimately the Minister of National Defence is responsible for the administration of that department.

**Senator Forrestall:** Honourable senators, is it not true that only the Prime Minister can authorize use of JTF2 because of its specialized functions with regard to the use of deadly force, both abroad and here in Canada?

**Senator Carstairs:** Honourable senators, that is not my understanding of the line of responsibility for JTF2. However, if I am incorrect in that, I will get back to the honourable senator as quickly as possible.

## MINISTERS AUTHORIZED TO RECEIVE SIGNIFICANT INCIDENT REPORTS

**Hon. J. Michael Forrestall:** Does the Leader of the Government in the Senate, as a minister of the Crown, and the only minister in this chamber, receive copies of significant incident reports and/or situation reports from the Privy Council Office with regard to military operations? If not, is there a reason why not?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not receive such incident reports. I can only assume that is because it is not within my area of responsibility. After all, my responsibility is as Government Leader in the Senate. That makes me a member of the cabinet. When the full cabinet is informed of certain incidents, I obviously am informed, but I am not given any individual briefings.

**Senator Forrestall:** Honourable senators, I would not want to comment on where that leaves the Senate, apparently, in the eyes of the cabinet.

Has the minister ever seen a written report on the activities of Joint Task Force 2?

**Senator Carstairs:** No, honourable senators, I have not.

## AFGHANISTAN—JOINT TASK FORCE 2—BRIEFING OF CABINET ON INCIDENT INVOLVING TAKING OF PRISONERS

**Hon. J. Michael Forrestall:** Honourable senators, can the minister tell the chamber on what date she first learned that members of Joint Task Force 2 took prisoners in Afghanistan?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as I indicated in response to a similar question last week, I heard of the JTF2 apprehension of prisoners at the same cabinet meeting at which the Prime Minister learned that information.

• (1420)

**Senator Forrestall:** Honourable senators, who told the Leader of the Government that Canadian Forces took prisoners in Afghanistan? How exactly was that information communicated to the minister?

**Senator Carstairs:** Honourable senators, I am in a difficult situation here. I do not want to divulge anything from cabinet that is not already public knowledge. I would not want it to be held against me for sharing that information.

At that cabinet meeting, we had a report from the Minister of Defence. That information is public knowledge. In that report, we were told about the arrest of the individuals in Afghanistan.

[Translation]

## NORTH ATLANTIC TREATY ORGANIZATION

### MODERNIZATION OF ARMED FORCES EQUIPMENT TO MEET OBLIGATIONS

**Hon. Pierre Claude Nolin:** Honourable senators, my questions concern more specifically Canada's military spending in the context of its obligations to NATO.

Yesterday, the *Financial Times* referred to the comments made by NATO's secretary-general, Lord Robertson, regarding the decision by the President of the United States to allocate an additional \$48 billion to the United States defence budget.

According to Lord Robertson, if the Americans do not take any measures to facilitate technological transfers and military equipment exports to their allies, the operations of NATO or of future international military coalitions could be seriously jeopardized.

NATO's secretary-general also pointed out that Canada has an obligation to invest in certain strategic sectors of the Canadian armed forces operations, in order to improve our forces' ability to intervene during an armed conflict. According to Lord Robertson, Canada must either modernize its military forces or face a decline in its influence at the international level.

Does the minister recognize that allocating an additional \$1.2 billion to the Department of National Defence over the next five years will be totally insufficient to modernize the equipment used by our troops, since \$900 million of that amount is earmarked for security measures and operation Apollo, and only \$300 million for the procurement of military equipment?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** There are several parts to the honourable senator's question.

Honourable senators, the government has not made any decisions at this point with respect to enlarging its commitment to NATO, although there have been some agreements with the United States about partnerships in technology, which would have some impact on equipment in the future.

As to the other aspect of the honourable senator's question, I do not have any knowledge, but if I can obtain some information, I will share it with the honourable senator.

[Translation]

## NATIONAL DEFENCE

### CONSEQUENCES OF UNDER-FINANCING

**Hon. Pierre Claude Nolin:** In light of the numerous problems that have delayed the deployment of Canadian troops and military equipment in Afghanistan, does the minister recognize that the comments of NATO's secretary-general confirm those made by several other observers — including the Auditor General of Canada — to the effect that the chronic under-financing of the Canadian Forces could increase Canada's inability to fulfil its international commitments to NATO and to the international coalition against terrorism?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator is addressing the problems of arranging for the strategic lift of our troops to Afghanistan.

The reality is that only two of our allies have strategic lift capacity. One of them is the United States and the other is the United Kingdom, both considerably larger countries than Canada. Other countries do not have that capacity. In my view, it would not be financially feasible to provide at any time for all of our airlift needs in-house.

However, the government is committed to enhancing the ability of the Canadian Forces to deploy anywhere around the globe. That is why a committee has been put into place with respect to this initiative.

[Translation]

### UNITED STATES—REVISION OF POLICY CONCERNING EXPORT OF MILITARY EQUIPMENT AND TECHNOLOGY

**Hon. Pierre Claude Nolin:** Every three months, NATO puts out a publication for the general public showing the military spending of all NATO countries. All these tables are proportionate to population and Canada is at the bottom of the list. The Auditor General has often pointed out that, when it comes to military spending, Canada does not compare to any of its allies.

My final question as well has to do with the speech by NATO's secretary-general. The article in the *Financial Times* also mentioned that the U.S. State Department is now reviewing its military equipment and technology export policy with a view to greater flexibility.

Since Canada is an important trading partner of the United States in this area, can the minister tell the members of this chamber whether the federal government was consulted by the State Department in this connection?



[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not know of any specific negotiations or discussions that have taken place between the Secretary of Defence of the United States and the Minister of Defence here in Canada.

The question of equipment is always interesting. Defence expenses are part of the overall budgetary policy of the government, which has been gradually moving to more expenditure in the defence field. At this point, we are not, I think, at maximum levels in terms of need.

However, it was interesting to watch CNN the other night and see 10 minutes devoted to our Coyote, the new armoured vehicle that is being commanded by our troops in Afghanistan. It is being commended by the Americans. The Americans also think that we have the best rifles, and they have now accepted that our camouflage uniforms are the way to go.

## FOREIGN AFFAIRS

### UNITED STATES—ALLEGED LANDING OF FORCES IN IRAQ

**Hon. Terry Stratton:** Honourable senators, my question is addressed to the Leader of the Government in the Senate. It concerns a report out of *Pravda* this morning. It reports a Japanese newspaper stating that the Americans have landed in Iraq, in the northern no-fly zone near the Turkish border. The Americans want to examine the opportunities for a military campaign. Is the minister aware of this information and can she verify its accuracy?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I have no information with respect to any attack by the United States or that their forces have landed in Iraq.

### IRAQ—EFFORTS OF GOVERNMENT TO HAVE BORDERS REOPENED FOR UNITED NATIONS INSPECTORS

**Hon. Terry Stratton:** Honourable senators, my concern is that this appears to be a unilateral step on the part of the United States. I did not expect the minister to be able to answer. It would appear that the United States intends to go into the no-fly zones in the northern and southern parts of Iraq. That information should not be a surprise to us because those are areas they can control.

My concern is that while we have been pushing for a time to get some agreement as to UN inspections, I am not satisfied that Canada has done all it can to get the UN inspectors back into Iraq. If Canada had played a leading role to this end, perhaps the events that are supposedly taking place in Iraq now would not take place.

Can the minister give me an update or any kind of statement at all as to what the Canadian government is doing to have UN inspectors put back in Iraq, utilizing the historic role of Canadians in leading such an event? I would expect, and I believe, that we are highly trusted in the Mideast.

• (1430)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Canadian government has for a long time insisted that Iraq must live up to its United Nations Security Council obligations and permit UN arms inspectors to ensure that Iraq neither produces nor stores weapons of mass destruction. It is our view that Iraq's unwillingness to accept these inspectors cannot continue indefinitely. Our efforts have been focused through our partnerships and our friendships in the Middle East to ensuring that Iraq meets its commitments.

[Translation]

### IRAQ—COMMENTS BY PRIME MINISTER

**Hon. Pierre Claude Nolin:** Honourable senators, my question is for the Leader of the Government in the Senate. A little earlier this week, the media reported a telephone conversation between one of the deputy clerks of the Privy Council, Mr. Laverdure, and his counterpart at the White House, Ms Condoleezza Rice, security advisor to President Bush. The question of Iraq was raised. This was a call placed by Ms Rice to her counterpart, Mr. Laverdure, during which she asked him how the statements the Prime Minister of Canada made in Russia and in Berlin about Iraq should be interpreted. Did these conversations touch on what is being reported today in *Pravda*?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is the position of Canada that nothing has happened that requires Canada to make a decision on actions in Iraq that would be any different than our present decision, which is that Iraq has been under UN sanctions. It is the United Nations that has made decisions with respect to any actions taken in Iraq. That is and continues to be the position of the Government of Canada.

## SCRUTINY OF REGULATIONS

### GENERAL COUNSEL TO JOINT COMMITTEE— LETTER PUBLISHED IN *THE HILL TIMES*

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, my question is not to the Leader of the Government in the Senate but rather to the Joint Chairman of the Standing Joint Committee of the Senate and the House of Commons for the Scrutiny of Regulations.

Could the joint chairman advise this house if the committee requested that the general counsel to the Standing Joint Committee for the Scrutiny of Regulations, François-R. Bernier, write the letter that was published in *The Hill Times*?

My honourable colleague the Leader of the Opposition in the Senate has referred to one sentence in the letter that says:

Additionally, I expect Senator Hervieux-Payette, a minister in the Trudeau administration, may take exception to being identified as anything other than a Liberal.

In the original article to which Mr. Bernier was replying, reference was made to "Tory Senator Hervieux-Payette."



To my friends opposite, my family name as used by members of my family does not subscribe to the language or the ideology of a certain Kinsella who had observations to make in today's *National Post*. The headline says, "Senior MP not a true Grit," Kinsella says."

Being from a different family and school of thought, I do wish to raise a rather serious issue. It is a curious one. Yesterday, in the other place, a question of privilege was raised because of this letter that was sent by an officer of a joint committee. If the Speaker of the other place decides on the privilege, it may affect the privileges of this place.

Could the joint chairman of the committee share with the house how she expects this matter to be resolved? Could she inform the house as to what is going on?

[Translation]

**Hon. Céline Hervieux-Payette:** Honourable senators, some people in Quebec were just born Liberals, and there is nothing that can be done to change that. In my case, it is genetic.

I have read Mr. Bernier's letter, as has everyone else. Honourable senators will understand that I could not have written such a letter fifteen years ago, of course, since I have not been the co-chair of the committee for 15 years. Our legal counsel is probably one of the best legal experts I have met in my life. He does an admirable job, as part of an exceptional team. The facts reported in the first article — I emphasize, the facts — were so glaring that I can, in part, understand what motivated Mr. Bernier's actions.

As co-chair of the Joint Standing Committee on the Scrutiny of Regulations, I intend to leave it up to the Speaker of the House of Commons to rule on the question of privilege. Our committee executive will hold the matter in abeyance until we hear from the Speaker of the House of Commons. We are not going to usurp that prerogative. As soon as the Speaker of the House of Commons has made his response public, our committee will be able to address the matter.

This committee has extremely important and substantive issues to study, and some of the edited reports have even been published in advance on the Web sites of political opponents. It is certainly the most talked-about committee on the Hill right now. If this serves to publicize the Joint Committee for the Scrutiny of Regulations, I certainly will not complain, if it makes more people aware of it. It is probably the most obscure committee on the Hill. It is a committee I sit on out of conviction. The membership of the committee is of exceptional quality, and attendance has increased noticeably in the last few weeks, given some of the topics. Regular attendance is extremely important. I think that the fact that parliamentarians have such a significant role to play when it comes to regulations demonstrates the degree of democracy in our system, and I am very proud of this.

#### DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in

[Senator Kinsella]

this house a response to a question raised in the Senate on February 7, 2002, by Senator Grafstein, regarding Her Majesty Queen Elizabeth II, and the possibility of a Golden Jubilee Commemorative Medal.

#### HER MAJESTY QUEEN ELIZABETH II

##### POSSIBILITY OF GOLDEN JUBILEE COMMEMORATIVE MEDAL

*(Response to question raised by Hon. Jeremiah S. Grafstein on February 7, 2002)*

2002 marks the 50th anniversary of Her Majesty The Queen's Accession to the Throne. The Government of Canada plans to commemorate and celebrate the Golden Jubilee throughout 2002, culminating with the Queen's royal visit in October. The Department of Canadian Heritage has developed a Golden Jubilee Strategy, taking into account the challenge of how best to lay the foundation for an anniversary of truly national significance. The strategy encompasses events and activities between February and October 2002. It is the Government of Canada's intention to develop a Golden Jubilee medal program. The medals would be awarded during 2002 only and would focus on the achievements of the past 50 years. The Chancellery of Government House would administer such a program.

[English]

#### ORDERS OF THE DAY

##### SIR JOHN A. MACDONALD DAY AND SIR WILFRID LAURIER DAY BILL

##### MESSAGE FROM COMMONS

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons returning Bill S-14, respecting Sir John A. MacDonald Day and Sir Wilfrid Laurier Day, and to acquaint the Senate that they have passed this bill without amendment.

• (1440)

##### CLAIM SETTLEMENTS (ALBERTA AND SASKATCHEWAN) IMPLEMENTATION BILL

##### THIRD READING

**Hon. Jack Wiebe** moved the third reading of Bill C-37, to facilitate the implementation of those provisions of First Nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act.

He said: Honourable senators, I want to speak briefly to Bill C-37 to say my thanks to honourable senators on both sides of the house and the members of the committee for their careful study and consideration of a very important piece of legislation which will benefit the provinces of Saskatchewan and Alberta, as well as the province of Manitoba, thus bringing the claim settlements of our First Nations obligations into the modern era.

I thank you for your cooperation and, in anticipation, your support for this particular bill at third reading.

**Hon. Janis G. Johnson:** Honourable senators, I, too, wish to address Bill C-37, in respect of First Nations' claim settlements implementation.

This bill came through the Aboriginal Peoples Committee, and it has been reported without amendment. Our deliberations were brief, but, I believe, thorough. A bill with so much to recommend, it does not take up much time in committee. I congratulate all of my colleagues on the job we have done.

I am pleased this bill extends the provisions it contains to Alberta and Saskatchewan. Similar provisions have been in effect in my province of Manitoba since October 2000, with the passage of the Manitoba Claim Settlements Implementation Act. This means that, if and when Bill C-37 passes, 97 per cent of the outstanding reserve expansion commitments based on claims that have been made by the government to date will come under these useful provisions if the affected First Nations so choose, since 97 per cent of these communities have been made in the three prairie provinces.

Let me provide honourable senators with some background on this technical bill, as it has been two months since this house last debated it.

Bill C-37 has two main goals in its 14 short clauses. Both relate to facilitating the practical implementation of claim settlements that are concerned with reserve expansion. First, it aims to speed up the reserve creation process. In part, this is accomplished by replacing the Governor in Council's authority to set apart selected lands as reserves with the minister's authority to exercise that function. Ministerial sign-off is clearly the quicker process and speeding up this process is clearly helpful to First Nations.

Second, Bill C-37 aims to create greater economic stability for both First Nations and third parties with interests, or proposals for such, on lands those nations have selected to fulfil reserve expansion commitments. It will do this by letting First Nations enter into negotiations and conclude agreements for development with third parties before the land officially becomes a reserve, and even before it is purchased, neither of which is, as it stands, allowed under the Indian Act. Having an agreement in place while any other prerequisites to reserve creation are cleared will no doubt greatly help both parties involved. It also means that First Nations can choose lands with existing and evolving developments instead of simply choosing land with the fewest interests to clear.

This provision also helps to achieve the first goal of the bill. Proof positive of what we all know — that the Indian Act is largely irrelevant to, and often an impediment to, today's relationship between Canada and First Nations — the act does not address reserve creation and prevents the Crown from setting aside as a reserve any lands with existing third party interests. The federal additions to reserve policy in order to accommodate this situation requires that any First Nation that chooses land with existing interests must first clear or accommodate those interests in a way satisfactory to Canada, the First Nation and the third party. By providing increased security for both parties, Bill C-37 may make the accommodation of existing interests easier and more secure for third parties, who will thus likely be more willing to come to the table.

Honourable senators, this bill also comes with a measure of flexibility, as did its Manitoba counterpart. First Nations may opt into the bill scheme if they feel it will be helpful. If not, they can continue to use the older Indian Act governed scheme. If pre-reserve designations are accepted by the minister, they come into force if and when the land is officially set aside.

Let us put this into perspective. I mentioned that 97 per cent of the claims-based reserve expansion commitments in Canada could be found in Alberta, Saskatchewan and Manitoba. As of September 2001, 109 specific claims had been settled in these provinces, 30 in Alberta, 46 in Saskatchewan, and 33 in Manitoba. There are still 45 under review or negotiation in Alberta, 40 in Saskatchewan and 30 in Manitoba. I am not including specific claims rejected by the government and under review by the Indian Specific Claims Commission, which may eventually lead to further settlements.

Let us examine one section of one of these: the land promised in Treaty Land Entitlement, or TLE, agreements — a kind of specific claim settlement that typically includes reserve expansion commitments — in Saskatchewan. There are 29 First Nations covered by TLE agreements in that province that are potentially engaged in land selection and working through the prerequisites for chosen lands to be set aside as reserves. Potential outstanding reserve expansions of these 29 bands alone amount to about 1.65 million acres. Some of these have been selected and are undergoing evaluation and agreement negotiations. Other First Nations have yet to select, or buy under a willing seller/willing buyer arrangement, land to be converted to reserve status.

Under the government's additions to reserve policy, there may be hoops to be jumped through before land can be officially set aside as a reserve. For example, a First Nation must negotiate a services agreement with the municipality in which it will expand its land base to ensure service provision to that land, now the property of the federal Crown instead of the province, thus partially governed by separate laws and regulations applying only to First Nations. Given the complexity these agreements can often represent — and I know how complex they can be having studied this — the difficulties of harmonizing various bylaws and so forth, these negotiations can take years.



Therefore, this is only one of the many prerequisites for reserve expansion or creation. Title must be cleared, the land must undergo an environmental review and a survey. The proposal for expansion must be evaluated for cost-effectiveness, and unless the First Nation has signed into a framework agreement covering tax losses, the municipality must negotiate for compensation with the provincial and/or federal Crowns to help offset lost tax revenues that occur when an area under its jurisdiction is set apart as non-taxable reserve land. Add to this the time already spent in claim negotiations, and the fact that non-contiguous parcels of land must be cleared and set aside as reserves through separate processes, literally years can pass before a claimant First Nation is finally free to take advantage of land to which it has a right since Canada's lawful obligation to a First Nation first arose and, likely beyond that, from time immemorial.

Given the immense amount of land we are talking about and the number of First Nations affected by these policies and the legislation now before us, it becomes obvious that any enactment that can accelerate the process whereby lands become reserve land is helpful. In Manitoba, at least two First Nations with TLE settlements have been paying taxes on property that they bought on a willing seller/willing buyer basis with settlement funds while they negotiate municipal service agreements with less than eager municipalities. While this fact may bring forth a cheer from the official opposition in the other place, this kind of situation can be crippling for First Nations who may not have budgeted for such an expense and may now be facing a lengthy — and expensive — stall in their attempt to have the land set aside.

• (1450)

Although this proposed legislation will not have any direct effect on the forging of municipal service agreements, the point is still relevant: the pressure created by using Bill C-37 to come to solid agreements with third parties in advance of reserve creation could potentially stimulate the movement of stalled negotiations and ultimately speed up the reserve creation process.

In any case, this process — from the time of claim settlement to the setting aside of the chosen lands — is complex and can often be quite lengthy, and First Nations need it to be as free of obstacles as possible. Bill C-37 laudably contributes to this removal of obstacles. Honourable senators are also aware that bands need economic opportunities to help them to become financially more independent. Having these opportunities will likely be a big step toward solving at least some of the many problems faced by Aboriginal peoples on reserves today.

Honourable senators, all across Canada, First Nations are entering into fruitful partnerships with industries and businesses. The Membertou Nation of Cape Breton recently received ISO 9001 certification to indicate that their reserve is open for — and to — business and is well equipped to form transparent and productive working relationships. More and more businesses are realizing the benefits of involving First Nations in their

development plans. Businesses and Aboriginal groups in Manitoba got together only a few weeks ago to demand that the minister clarify his department's policy of taking over the financial affairs of First Nations in the red and denying the creditors their dues, a policy which makes securing credit for entrepreneurial projects tough for First Nations and tightens the cycle of fiscal dependence. The members of many First Nations are showing themselves to be shrewd business people who are fully capable of creating and taking advantage of opportunities. We must ensure that the law and government policy do not get in the way of these opportunities becoming available as expeditiously as possible.

Speaking of expeditious processing, it is worth noting again as I did in my last address to senators, that the administrative process for the Manitoba Claim Settlements Implementation Act is still unfinished. Specifically, the instruments needed for the minister to accept pre-reserve designation and to set aside land as a reserve in place of the Governor in Council are not yet in place.

As I mentioned earlier, this act has been in effect for 17 months now without a way for First Nations in the province to take advantage of the leverage that signing on to it could provide. I do understand that delays of this kind are not unusual but they are disappointing. DIAND officials who appeared as witnesses assured the members of the Aboriginal Peoples Committee that the necessary instruments will shortly be in place, and I am hopeful that this is true, especially because similar instruments will be adopted in Alberta and Saskatchewan when the current Bill C-37 is passed. I am glad that this means — we hope — that the First Nations of those provinces will not have so long to wait to take advantage of this excellent bill.

Honourable senators, let me once again congratulate the government and our committee on a job well done and add the support of my party to the speedy passage of Bill C-37.

Motion agreed to and bill read third time and passed.

## CRIMINAL LAW AMENDMENT BILL, 2001

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on Legal and Constitutional Affairs, (Bill C-15A, to amend the Criminal Code and to amend other Acts, with amendments) presented in the Senate on February 19, 2002.

**Hon. Lorna Milne** moved the adoption of the report.

She said: Honourable senators, this report concerns Bill C-15A, to amend the Criminal Code and to amend other acts. Your committee has proposed two amendments to this proposed legislation that I will outline for you. Before proceeding to the specific details of the amendments, I wish to first provide background information on the bill so that we are not discussing the issues in a vacuum.

Bill C-15 was originally introduced in the other place in March 2001. The bill dealt with a wide range of criminal law matters, some more controversial than others. As honourable senators are aware, the bill was eventually divided into two parts. Bill C-15A that is before the Senate now deals with six areas of criminal law: child pornography, stalking, home invasions, disarming police officers, procedures for the wrongfully convicted, and general procedural amendments.

Honourable senators, your committee was generally supportive of all the provisions in this bill. I believe I can safely say that there is unanimity within the committee that these provisions substantially improve the Criminal Code. The committee has found it necessary to clarify two parts of this bill to ensure that the courts uphold the legislative intent of the bill.

Both amendments relate to the child pornography provisions in the Criminal Code. Generally speaking, the bill makes it a crime to use the Internet to view child pornography, and any person who uses the Internet to transmit child pornography to another person is guilty of an offence. Furthermore, the court can order an Internet service provider to remove child pornography from its computers, should any be found there.

The first amendment addresses a flaw in the bill, as pointed out by Senator Nolin during his second reading speech. Under the child pornography provisions of the Criminal Code, a person is allowed to possess child pornography if the material has either "artistic merit or an educational, scientific or medical purpose." This defence is found in section 163.1(6) of the Criminal Code. It exists because of the Charter and decisions of the Supreme Court of Canada, including the case of *R. v. Sharpe*. As originally drafted, the new provisions in this bill concerning child pornography on the Internet did not allow for these constitutionally mandated defences.

The committee has recommended that clause 5 of the bill be amended to add the defences of "artistic merit or educational, scientific or medical purpose" to the child pornography provisions in the bill. I note that this amendment was supported by former Minister of Justice Anne McLellan when she testified before your committee.

The second amendment deals specifically with the way that Internet service providers are treated under the child pornography provisions of the Criminal Code. There was some concern raised during the course of the committee's hearings that Internet service providers could be found guilty of an offence under this act even though they did not know that their systems were being used to transmit child pornography from one person to another. The Canadian Association of Internet Providers was particularly concerned about this point. They argued that, as written, the provisions could allow for an Internet service provider to be guilty of an offence without even knowing that child pornography was on their system.

Honourable senators, the amendment passed by your committee attempts to address that concern by adding a subsection to the child pornography provisions of the code. This second amendment also amends clause 5 of the bill by adding

two subsections to section 163.1 of the Criminal Code. The substantive portion of the amendment states:

(3.1) A custodian of a computer system who merely provides the means or facilities of telecommunication used by another person to commit an offence under subsection 163.1(3) does not commit an offence.

As there were errors in the English translation that went before your committee, honourable senators, the vote was based entirely on the French text that was provided to us, with the clear understanding that the English text would be corrected to agree with the French version. As such, the amendment passed on division.

As for the other five elements of the bill, the committee did have significant discussions on the merits of the new provisions for clearing the names of the wrongfully accused and the procedures for pre-trial conferences. In the end, no amendments were proposed to any of these elements of the bill, although some senators abstained from voting on some of the clauses that were the subject of the debate.

**Hon. Tommy Banks:** Honourable senators, I wish to ask Senator Milne a question in respect of an amendment to which she has just referred, that being 163.1(6). It is my understanding that the provider of an Internet service cannot be convicted of child pornography if he or she merely provides the service. Is that correct?

**Senator Milne:** That is correct.

• (1500)

**Senator Banks:** My difficulty is with regard to the intent, which I understood to be to ensure that an Internet provider who unknowingly transmitted child pornography ought not to be charged. The amendment, however, makes no reference to the question of the existence of knowledge on the part of the Internet provider. It says, if I understand it correctly, "merely provide."

To use a specific example, if I were an Internet provider, as anyone can be, and the honourable senator were, forgive me, a pornographer — I know that she is not a pornographer because I know that she does not have even a pornograph — and we agreed that she would produce the pornography and I, as an Internet provider, would provide the means by which she can distribute her pornography, I have merely distributed her pornography, but I have done so knowingly. It seems to me that the question of the knowledge of the Internet provider of whether he or she is distributing child pornography ought to be the cogent part of section 163.1(6) rather than the word "mere."

Am I reading correctly the intent of the amendment and have I understood correctly the wording of it?

**Senator Milne:** Honourable senators, I wish to thank Senator Banks for that question.

**Senator Nolin:** May I answer the question?



**Senator Milne:** I would be delighted to have Senator Nolin answer the question as he moved the amendment in committee. However, I will attempt to present fairly the arguments in the committee. In fact, "knowingly" is included in other sections of the Criminal Code and I believe that Senator Banks' interpretation of this amendment, standing alone with no context surrounding it, is probably correct. This was the subject of a great deal of discussion within the committee and was one of the reasons this amendment was not passed unanimously by the committee.

I will leave it at that. When we come to the third reading debate, others in this chamber may want to expand on that.

**Hon. Pierre Claude Nolin:** I wish to comment on the question raised by Senator Banks. The amended paragraph 3.1 of section 163.1 says that a custodian of a computer system who merely provides the means or facilities of telecommunication used by another person to commit an offence under subsection 163.1(3) does not commit an offence.

In his question to Senator Milne, Senator Banks asked about the intent. The intent was to ensure that the commercial business of Internet service provider only provides the conduit. The service provider is not subject to the infraction of transmitting. The way the new infraction is written, to transmit is an infraction without any reference to the criminal intent to transmit child pornography.

That was the problem encountered by the committee. We decided to ensure that the Internet service provider would not be caught in "the transmitting of" without knowledge of what they were transmitting.

**Senator Banks:** I thank Senator Nolin for that explanation. I believe I understand what he said and I agree that an unknowing Internet provider ought not be subject to charge. However, to look at the worst possible side of it, any of us could tomorrow invest some money and become an Internet provider. We can, thereafter, knowingly transmit the Encyclopedia Britannica, e-mail for other people and pornography.

It seems to me that the revision in the law ought to provide protection for Internet service providers. However, the aspect of "knowledge" ought to be included. We should be careful to permit the charging of Internet service providers who knowingly transmit child pornography, which, in the example I just gave, absurd as it was, could happen. I could in fact set up an Internet service specifically for the purpose of transmitting child pornography. Under the amendment before us, if I knowingly set up an Internet service specifically for the purpose of transmitting child pornography, I would not be subject to charge, and I think that is wrong.

**The Hon. the Speaker:** Honourable senators, I should clarify where we are procedurally. I have taken Senator Nolin's comments as an intervention on the report, not as a comment on Senator Milne's speech. Were it so, the allotted time would have expired and I would not have been correct in allowing Senator Banks to put a question to Senator Nolin. I have interpreted the

proceedings such that Senator Nolin was making an intervention not making a comment on Senator Milne's time.

**Senator Nolin:** The honourable senator may not have before him the exact wording of the new infraction, but an individual who puts in place a service for the purpose of distributing child pornography would be captured under section 163.1.

**Senator Banks:** Thank you.

**Senator Nolin:** I personally had to decide whether I should introduce an amendment to add the word "knowingly" to the amendment proposed to the Criminal Code by the government in section 163.1(3) or whether I should introduce an amendment to explain that in the normal course of their business that group of individuals is only there to provide a conduit. I decided on the latter.

The honourable senator and I can argue about which one should include the word "knowingly." That is open for debate. The new crime created by section 163.1(3) is clear. If you have the intent to transmit child pornography, you are caught, regardless of where you are in the process. The amendment is to ensure that commercial organizations that exist merely as a conduit are not charged, because they are not doing so knowingly. The committee had a long discussion on that.

• (1510)

**Hon. Anne C. Cools:** Honourable senators, I wish to intervene briefly on the particular question now at the committee report stage. I appreciate and understand that Senator Nolin feels a degree of pride that his amendment has carried in committee.

In her speech presenting the report for our consideration, Senator Milne made mention of the fact that the committee was far from unanimous and that the vote was quite divided. I thought that I would register that fact as clearly as I can here. I would suspect that when we vote today on this report, the exact thing that happened at committee will happen here and there will be a clear division.

I wanted to crystallize the point that we did not all support Senator Nolin's amendment, although I understand the sense of satisfaction he has that it carried.

**Hon. John G. Bryden:** I have a question for Honourable Senator Nolin.

I am relying on the honourable senator having given full disclosure on how we created the offence.

**The Hon. the Speaker:** Is the Honourable Senator Bryden asking a question of Senator Nolin?

**Senator Bryden:** Yes.

**An Hon. Senator:** Out of order.

**Senator Cools:** Senator Bryden can put a question to me but he cannot put a question to Senator Nolin, though he can speak to the report.

**The Hon. the Speaker:** Let us clarify whether the Honourable Senator Cools was making a comment or asking a question of Senator Nolin. Was Senator Cools making an intervention?

**Senator Cools:** I did not ask a question. I was speaking on the report. If I interrupted questions, I would have been happy to wait so that the questions to Senator Nolin could have been put. I was making an intervention on the report itself, which is where we are in the proceeding. I am sure it is not a big issue and that we could all agree easily to let Senator Bryden put a question to Senator Nolin.

**The Hon. the Speaker:** I thank the Honourable Senator Cools. As she regarded her interruption as an intervention, I take it that it is an intervention and, accordingly, leave will be required to give Senator Bryden an opportunity to ask Senator Nolin a question.

Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would agree to grant leave for one question.

**Hon. Eymard G. Corbin:** Honourable senators may have noticed that I rose earlier in order to put a question to the honourable senator who made the report. That honourable senator has now left. Since my question concerned an amendment presented by Senator Nolin, my intention is to rise again and put the question directly to him. I say that so Senator Robichaud will know that the debate going on right now is important.

**Senator Robichaud:** Honourable senators, I will allow two questions.

**Senator Bryden:** Honourable senators, I have a point of order. Since Senator Corbin rose first, does he ask the first question?

**The Hon. the Speaker:** I have recognized Senator Bryden, so he should go first. I have noted Senator Corbin's desire to rise after Senator Bryden puts his question.

**Senator Bryden:** Thank you, honourable senators.

Will Senator Nolin accept a question?

**Senator Nolin:** Even two!

**Senator Bryden:** The offence, as I understand it, is hinged, as are all offences in the Criminal Code, on the person having knowledge — *mens rea* — when he or she commits the offence.

If the issue is whether people do things knowingly or unknowingly, I suggest it would be appropriate that, instead of the amendment reading "who merely provides the means," it read "a custodian of a computer system who unknowingly provides the means of facilitating telecommunications used by another person to commit ..." There would then be consistency in relation to the *mens rea*, the knowledge that is required by the

offence, and it is not an offence if someone does it unknowingly. There is one caveat on that. I do not know that "merely" is a well-understood or accepted term in law and in the statute interpretations, whereas "knowingly" and "unknowingly" are very well understood. Would you comment on that?

**Senator Nolin:** Honourable senators, first, let me tell you that I introduced the amendment in French and the French version of the amendment is much more precise — at least, in my understanding of it. What honourable senators have in front of them is a translation that was agreed upon by the committee. Basically, I introduced it in French.

I cannot agree to the first part of the question. I cannot agree that all the offences or crimes listed in the code need *mens rea*. I would like to say "yes" to that, but the way the code has developed over the centuries, there are some offences where *mens rea* is not needed. In some areas it is written that way; it is specifically written "knowingly" and so on. In other areas, it is not written that way.

Therefore, we have those three zones. I know some decisions interpret the code to mean that the criminal intent should be part of the construction of the crime.

My amendment was to ensure that we were not catching an honest commercial organization providing a service. That was the intent of my amendment.

Concerning the English translation, when I tabled the English version of the amendment in the committee, there were questions about it. I relied on the French version of my amendment and I can totally defend it. With regard to the English version of the amendment, I am willing to wait to ensure agreement in both official languages.

Does that answer the honourable senator's question?

[Translation]

**Senator Corbin:** Honourable senators, when Senator Milne presented the committee's report, she alluded to the amendment on material that has either artistic merit or an educational, scientific or medical purpose, in the context of child pornography.

My problem is the following: I am a serious amateur photographer. I often consult Web sites that show all kinds of photographs, including still life, architecture, nudes, et cetera. Whenever a Web site shows nudes, a warning is displayed, particularly on American sites. If you are 16 or under, you cannot go to these sites. I go nevertheless. As a legislator, I want to know what we are dealing with when we review this kind of legislation.

• (1520)

These sites offer up as art what is frankly outright and shocking pornography. I do not see how, by invoking artistic merit, you are going to avoid situations where what you are dealing with is just plain child pornography.



Have you defined artistic merit? Where are the standards, the safeguards? I am not so inclined to support your amendment.

**Senator Nolin:** Honourable senators, so as to be sure that everyone can follow our discussion, take the *Journals of the Senate* for February 19. Open them at page 1218 and you will understand what we are talking about.

Senator Corbin is referring to the second amendment. I referred to it in my speech at second reading. I alerted the chamber to an omission in the bill.

The Criminal Code already contains a defence. Subsection 163.1(6) reads as follows:

Where the accused is charged with an offence under subsection (2), (3) or (4), the court shall find the accused not guilty if the representation or written material that is alleged to constitute child pornography has artistic merit or an educational, scientific or medical purpose.

In *Sharpe*, the Supreme Court upheld the legality of this defence. My purpose is not to question the fairness of the Supreme Court decision. In *Sharpe*, it recognized the validity of this defence.

During my speech at second reading, I pointed out to the Chamber that we should include in subsections (6) and (7) of section 163.1 of the Criminal Code a new paragraph (4)1), describing the new offence created by Bill C-15A. I do not wish to question this line of defence. It exists. The Supreme Court has recognized it; it has upheld this defence. It is fair and reasonable that this defence be extended to the new offence created in Bill C-15A. Does this answer the honourable senator's question?

**Senator Corbin:** Honourable senators, I will take part in the debate at third reading.

**Senator Nolin:** Honourable senators, there will be an interesting debate on the whole issue of miscarriages of justice. A number of members of the committee have decided to abstain from voting on all articles of the bill dealing with such miscarriages in order to allow a debate to take place at third

reading. It is on this issue that we, as senators, must maintain broad opinion on such a sensitive subject. We are talking about individual freedoms. This is what we must discuss at this reading.

[English]

**The Hon. the Speaker:** It was moved by the Honourable Senator Milne, seconded by the Honourable Senator Bryden that this report be adopted now.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Robichaud:** On division.

**Senator Joyal:** On division.

Motion agreed to and report adopted, on division.

**The Hon. the Speaker:** When shall this bill, as amended, be read the third time?

On motion of Senator Pearson, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, today is Wednesday, a day on which committees sit at 3:30 p.m. With leave of the Senate, I move that the Senate do now adjourn and that all items on the Order Paper that have not been reached stand in their place.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

The Senate adjourned until Thursday, February 21, 2002 at 1:30 p.m.

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CANADA

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OFFICIAL REPORT  
(HANSARD)

Thursday, February 21, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER

MAR 27 2002



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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, February 21, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### SENATOR'S STATEMENTS

#### INCREASE IN FOOD EXPORT BUSINESS

**Hon. Jim Tunney:** Honourable senators, I rise before you today with some good news. Agriculture Canada recently announced that our country's food export business has set new records. Last year, at the end of November 2001, for 11 months, the value of food exports was \$24.4 billion, 4 per cent higher than the 2000 full-year figures. The food trade surplus was 21 per cent higher than the previous year, at \$6.7 billion. As many senators know, the Canadian goal is to claim 4 per cent of world trade in food. The last calculations indicated that we are at 3.52 per cent.

The value of food exported to the United States saw an increase of more than 17 per cent, which equated to \$15.3 billion. Increased exports of meat and live animals led the way in spite of a reduced U.S. economy.

This banner year is a tribute to the efficiency of Canadian food producers and processors. Our Minister of Agriculture is quoted as saying:

Canada is a global supplier of choice for international customers looking for high quality and safe products.

This success can also be attributed, in my opinion, to the work of two federal ministers. Agriculture Minister Lyle Vanclief and International Trade Minister Pierre Pettigrew deserve much credit.

In today's *Globe and Mail*, Loblaw's has issued its financial report for 2001, showing a profit of \$563 million, or \$2.04 a share, which is a substantial increase from results of the previous year.

Honourable senators, I would be happy if I could tell you that farmers, the producers of this food, could report the level of profit that was realized by Canadian processors and retailers of those products.

#### VISITOR IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I rise to draw to your attention the presence in our gallery of the Honourable Mitchell Sharpe.

Welcome.

**Hon. Senators:** Hear, hear!

### ROUTINE PROCEEDINGS

#### NATIONAL SECURITY AND DEFENCE

STUDY ON HEALTH CARE SERVICES AVAILABLE TO  
VETERANS—BUDGET AND REQUEST FOR AUTHORITY  
TO ENGAGE SERVICES AND TRAVEL—REPORT  
OF COMMITTEE PRESENTED

**Hon. Michael A. Meighen,** for Senator Kenny, Chair of the Standing Senate Committee on National Security and Defence, presented the following report:

Thursday, February 21, 2002

The Standing Senate Committee on National Security and Defence has the honour to present its

#### FOURTH REPORT

Your Committee, which was authorized by the Senate on October 4, 2001, that the Standing Senate Committee on Defence and Security be authorized to examine and report on the health care provided to veterans of war and of peacekeeping missions; the implementation of the recommendations made in its previous reports on such matters; and the terms of service, post-discharge benefits and health care of members of the regular and reserve forces as well as members of the RCMP and of civilians who have served in close support of uniformed peacekeepers; respectfully requests, that it be empowered, to engage the services of such counsel and technical, clerical and other personnel as may be necessary, and to adjourn from place to place within Canada for the purpose of such study.

Pursuant to section 2:07 of the Procedural Guidelines for the Financial Operation of Senate Committees, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

COLIN KENNY  
Chair

(For text of report, see today's Journals of the Senate, Appendix p. 1239.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

**Senator Meighen:** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(g), I move that the report be placed on the Orders of the Day for consideration later this day.

**The Hon. the Speaker:** Is leave granted, honourable senators?



**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report placed on the Orders of the Day for consideration later this day.

●(1340)

[Translation]

## SCRUTINY OF REGULATIONS

### JOINT COMMITTEE AUTHORIZED TO PERMIT ELECTRONIC COVERAGE

**Hon. Céline Hervieux-Payette**, with leave of the Senate and notwithstanding rule 58(1)(a), moved:

That, when the Minister of Fisheries and Oceans appears before the Standing Joint Committee for the Scrutiny of Regulations in relation to the *Aboriginal Communal Fishing Licences Regulations*, the Committee be empowered to permit coverage by electronic media of its public proceedings with the least possible disruption of its hearings.

**The Hon. the Speaker:** Is that agreed, honourable senators?

**Hon. senators:** Agreed.

Motion agreed to.

## OFFICIAL LANGUAGES

### SEVENTH REPORT OF JOINT COMMITTEE TABLED

Leave having been granted to revert to the Tabling of Reports of Standing or Special Committees:

**Hon. Jean-Robert Gauthier:** Honourable senators, I have the honour to table the seventh report of the Standing Joint Committee on Official languages on services provided in both official languages by Air Canada.

On motion of Senator Gauthier, report placed on the Orders of the Day for consideration at the next sitting of the Senate, under rule 97(3).

[English]

## QUESTION PERIOD

### FOREIGN AFFAIRS

#### UNITED STATES—ALLEGED LANDING OF FORCES IN IRAQ

**Hon. Terry Stratton:** Honourable senators, my question is to the Leader of the Government in the Senate. It concerns a

*Pravda* article that I referenced yesterday about a Japanese newspaper reporting the presence of American troops in northern Iraq. Has there been verification of that story?

**Hon. Sharon Carstairs (Leader of the Government):** Thank the honourable senator for his question. I cannot give him any more information today than I could give yesterday, which is that we have no knowledge of such presence of American troops.

## FINANCE

### OVERPAYMENT OF TRANSFER PAYMENTS TO PROVINCES

**Hon. Terry Stratton:** On another topic, my question concerns the overpayment of some \$3.3 billion in income tax collection to the provinces, mainly to Ontario and Manitoba. The government has hinted that it might reduce transfer payments to get the money back, but it seems unable to come to a decision.

A reduction of transfer payments would seriously hurt Manitoba because suddenly it would be in a position of owing \$600 million or \$2,100 per family of four. I would welcome an answer from the minister that the government has recognized that it has made a mistake because Manitoba has relied on the federal figures to plan its budget, of course, and the money has been spent. I do not expect the Leader of the Government to provide an answer until the Minister of Finance has made up his mind. However, could she at least indicate when the government will come to a decision regarding how these overpayments will be handled?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, before coming to a decision about how the overpayment is to be dealt with, the government has undertaken a re-examination of all the relevant tax processes and has asked the Auditor General to do a review. Clearly, no decision can be made until we have exactly the information that we require. At that point, I understand that no decision will be made without consultation with the affected provinces.

**Senator Stratton:** Honourable senators, that is a big sword to have hanging over one's head if one is the Government of Manitoba and there is the potential for having to repay \$600 million. That is the concern. Provinces, like the federal government, have to plan budgets for the coming fiscal year, and they should like an answer before the next budget. I understand the federal government's concern to get to the bottom of this matter in a proper fashion, but can we expect an answer in the next three months, the next six months? When can we expect a response?

**Senator Carstairs:** Honourable senators, it is in the best interests of the provinces, particularly the province of Manitoba, which both the honourable senator and I represent, that the correct information first be acquired and then a decision made after consultation with Manitoba's Minister of Finance, the Honourable Greg Selinger.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a response to a question raised by Senator Robertson on February 7, 2002, on fishery agreements with the Burnt Church First Nation.

## FISHERIES AND OCEANS

BURNT CHURCH—DISPUTE OVER FISHERY—  
COMMENTS BY FORMER MINISTER

(Response to question raised by Hon. Brenda M. Robertson on February 7, 2002)

The work with First Nations in response to the *Marshall* decision of the Supreme Court of Canada has taken time and involved much work on relationship building with Chiefs, Councils and communities. With respect to the initial short term agreements after the decision of the Supreme Court, DFO signed Fisheries Agreements with 30 out of 34 First Nations that are deemed to be *Marshall* beneficiaries. For the Longer Term Response to the *Marshall* decision which we have been implementing over the past year, to date we have signed 18 Fisheries Agreements. Much has been accomplished and there is much work to be done.

The comments of the former Minister of Fisheries and Oceans, the Honourable Herb Dhaliwal, reflected this reality. In public statements on the matter, the Minister referred both to the progress made to date and to the work that remained to be done.

October 23, 2001 — 'Update on Fisheries affected by the Supreme Court's *Marshall* Decision'

"Our work is not done. These examples of success are only beginnings, and the relationships we've been building still need to grow further. But the progress we've made since last year is encouraging."

This approach was reflected by the current Minister of Fisheries and Oceans, the Honourable Robert Thibault stated on January 16: "I think we have come a long way ... I think we have to keep working at it ... and I think we will achieve it."

The challenge at Burnt Church is particularly acute and sensitive. Minister Dhaliwal commented on September 17, 2001 that "the situation there is a delicate one." It was largely due to this concern that Minister Dhaliwal established the Community Relations Panel for Miramichi Bay. The Minister appointed Mr. Justice Guy Richard (former Chief Justice of the New Brunswick Court of Queen's Bench) and Roger Augustine (former Chief at Eel Ground First Nation) to review the current state of relations between Aboriginal and non-Aboriginal communities in the area and to provide a report on how these groups could better work together towards common goals. Establishing the Panel, the Minister stated: "The 1999 *Marshall* decision has had significant implications for the communities in the

Miramichi Bay area and has underscored the need for both Aboriginal and non-Aboriginal groups to work together to ensure social harmony and continued economic prosperity in the area."

With respect to work with the Burnt Church First Nation, DFO officials have held meetings with the Chief and Council on fisheries matters in the past few weeks. Work has started with the First Nation to prepare for this year's fishery and to move toward a long term fisheries agreement.

[English]

## ORDERS OF THE DAY

### CRIMINAL LAW AMENDMENT BILL, 2001

THIRD READING—DEBATE ADJOURNED

**Hon. Landon Pearson** moved the third reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended.

She said: Honourable senators, I rise to introduce the debate at third reading on Bill C-15A, to amend the Criminal Code and to amend other acts.

The Standing Senate Committee on Legal and Constitutional Affairs conducted a thorough examination of Bill C-15A, paying close attention to its various components. As a result, yesterday Senator Milne reported the bill back with two amendments.

During her speech, Senator Milne reminded honourable senators of the main components of the bill, so I will not review the details with you again. However, I should like to refer briefly to some of the matters that were specifically raised at the committee.

As honourable senators know, Bill C-15A proposes important improvements to the criminal justice system. Among these many reforms are measures that will provide enhanced protection to children from sexual exploitation including through the use of the Internet.

It was encouraging to see the strong support for these measures. Your committee and the witnesses who appeared before the committee on this bill recognized the need to provide better protection for children from those who would prey on their vulnerability through the use of the Internet, as well as the strength and probable effectiveness of Bill C-15A's amendments to the Criminal Code in this regard.

Before Christmas, I was in Yokohama, Japan, as the alternate head of the Canadian delegation to the Second World Congress against the Commercial Sexual Exploitation of Children.

•(1350)

There was considerable discussion, much of it unnerving, about the explosion of exploitation by means of the new technologies, including the Internet. I rejoice that the amendments proposed by Bill C-15A are so extensive.

To remind honourable senators about these proposed amendments, they would create an offence of luring, to



criminalize those who communicate with children in order to facilitate the commission of a sexual exploitation offence. They would also create new offences of exporting, transmitting, making available and accessing child pornography, in order to ensure that child pornography is prohibited at all stages, from production to consumption, whether or not a computer system is used in the commission of the offence.

Other provisions in the bill would also contribute to the protection of children and would do so in the following way: Judges would be given the authority to order the deletion of child pornography from the Internet after giving the person who posted the material an opportunity to be heard. Deletion could be ordered even in cases where the person who posted the material cannot be found or is outside the country, which is frequently the case, given the international dimensions of this horrible crime. The provisions would allow forfeiture of instruments used in the commission of a child pornography offence that are owned by the person found guilty of the offence. Property rights of innocent third parties would be protected. All child pornography offences and the offence of luring would be added to the list of offences for which a judge is authorized to make an order to keep a person away from children. Finally, Bill C15A would facilitate the prosecution in Canada of Canadians who commit a sexual offence against children in a foreign country. This measure addresses some of the shortcomings of the former bill on sex tourism, and we hope that it will work more effectively. In my view, these measures will contribute to the better protection of children from sexual exploitation.

As honourable senators are aware, two amendments were made to clause 5 of the bill in the committee. Clause 5 creates the new child pornography offences. The first amendment is a technical one and simply corrects an oversight. In fact, this first amendment responds to a concern raised by Senator Nolin at second reading and we thank Senator Nolin for his vigilance in noting an oversight with respect to the new offence of "accessing child pornography." Recognizing the validity of his point, the government moved an amendment in committee to ensure that the defences currently available in relation to all other child pornography offences apply equally to the offence of accessing child pornography.

Turning to the second amendment, clause 5 of the bill creates new child pornography offences of "transmitting" and "making available" in order to ensure that the Criminal Code captures all the possible steps in the dissemination of child pornography. In this way, the existing Criminal Code offence of "distribution" of child pornography will be broadened to ensure that it captures, for example, child pornography that is sent by e-mail from one person to another, as well as child pornography that is posted on a Web site without actively being distributed.

The attention to these new offences has been welcomed by all, including Internet service providers. However, it is also fair to note that Internet service providers expressed the fear to your committee that they could be convicted of transmitting or making

available child pornography without any knowledge or intention to do so by virtue of the fact that they provided the "means" by which child pornography is disseminated.

I wish to be very clear in saying that this is not the case, a fundamental principle of the criminal law is that an offence can only be committed when there is both a guilty mind and a guilty act — a fact acknowledged by the Internet service provider themselves.

As with other Criminal Code offences, there are two critical components to each of these new offences: the intention to transmit or make available child pornography and the physical act of transmitting or making available child pornography. Subclause 5(2) offences clearly require both of these elements. To specifically include a reference to the guilty mind or intention is not only unnecessary but could have real and unintended negative impact on other Criminal Code offences that do not specifically refer to intention, but which nonetheless require the intention to commit the offence.

An amendment was made in committee to respond to an issue raised by ISPs. This amendment, which adds subclause 5(2.1), is of great concern to me. It exempts the ISPs from criminal liability in all cases where they "merely provide the means or facilities of telecommunication." This exemption would apply even in cases where an ISP is aware that it is being used for disseminating child pornography. The exemption would apply because the ISP would still merely provide the means or facilities of telecommunication. As I mentioned earlier, ISPs who are unaware that their facilities are being used would be exempt from criminal liability without the need for this amendment because they would not have the mental element or guilty mind necessary for the commission of a child pornography offence.

Let us also remember, honourable senators, that subclause 5(2) does not create offences that are committed solely by means of the Internet. Child pornography offences can be committed by any means, including but not limited to the Internet.

By amending clause 5 only with respect to the ISPs' concerns, that is, by focusing only on the means of distribution with which ISPs are most closely concerned, we ignore those who are responsible for other means or facilities by which child pornography may be disseminated: a courier, a taxi driver or even a trucker could also unknowingly be used as a conduit or means of transmitting child pornography. Should we not be consistent and extend to them the same exemption from criminal liability as is being extended to the ISPs?

In my view, honourable senators, this amendment is unnecessary. It creates problems both for the provision itself as well as for other Criminal Code offences. It also makes me uneasy. When I was in Yokohama, I learned with dismay of the enormous amount of money that is at stake in the field of child pornography and of the worldwide criminal interest in promoting and advertising child pornography.



I do not question the intent of this amendment to protect unwitting ISP providers from criminal prosecution, but I am not sure about the way it is worded. What is to prevent those shady individuals who set themselves up to transmit child pornography — and let the fact be known through the underground network that we all know exists — from using this amendment as a defence that they were merely a vehicle?

I will now turn to other provisions of the bill that were specifically discussed in committee.

Bill C-15A proposes to increase the maximum penalty for criminal harassment, to require judges to consider home invasions as an aggravating factor at the time of sentencing, and to enact a new offence of disarming or attempting to disarm a peace officer. Your committee heard the overwhelming support of the police community for the latter measure, the new offence of disarming a peace officer, and clear support by witnesses for the other measures as well. We are confident that these reforms will strengthen the criminal justice system.

Another area of the bill that received a great deal of attention in the committee hearings was the proposed amendments to the process for review of alleged wrongful convictions. Bill C-15A contains important amendments to the conviction review process. These amendments will make the review of alleged wrongful conviction cases in Canada more efficient, open and accountable. These amendments will address the concerns of critics of the current section 690 conviction review process.

As we heard during committee hearings, some feel that Canada requires a formal independent body to review wrongful convictions, similar to the Criminal Cases Review Commission that was created in 1997 in Great Britain. Prior to introducing these amendments, the Minister of Justice met with British officials and extensively studied the British system. The minister concluded that an independent body was inappropriate in the Canadian context.

The Canadian experience with cases of wrongful conviction bears little resemblance to that of the United Kingdom. For example, the British Criminal Cases Review Commission was established because of a perceived conflict of interest for the Home Secretary who was responsible for policing and prisons, as well as for the review of allegations of wrongful conviction. Many of these cases involved allegations of misconduct by police.

The Minister of Justice is not in the same perceived conflict position as was the case with the Home Secretary in Great Britain. In Canada, the Minister of Justice is not responsible for the police or the prison system. Furthermore, the provinces are largely responsible for prosecutions.

After an extensive consultation process, the minister was convinced that the ultimate decision making and post-appellate conviction review should remain with the federal Minister of Justice. This recognizes and maintains the traditional jurisdiction of the courts, while providing a fair and just remedy in those exceptional cases that have somehow fallen through the cracks of

the conventional justice system. The minister is accountable to Parliament and to the people of Canada.

• (1400)

I also want to note that the reforms before us today in Bill C-15A propose a number of new features that would substantially improve the review process.

Section 690 of the Criminal Code does not currently state when one is eligible to apply for a review. The proposed amendments clarify eligibility to apply for review. The person must have exhausted all avenues of appeal. This amendment will make it very clear that the conviction review process is not an alternative to the judicial system.

The power to review alleged wrongful convictions will be expanded to include the review of summary conviction offences.

The amendments would allow for the enactment of regulations setting out the form, information and documents needed to apply for a conviction review. This will make the process more accessible.

The amendments provide that the stages of the review process will be set out in regulations. This will assist applicants by making the entire process of conviction review more open and understandable.

Section 690 does not currently provide powers of investigation. Under the proposed amendments, those investigating applications on behalf of the minister would have appropriate investigative powers. This will enhance the thoroughness, effectiveness and timeliness of the review process.

Honourable senators, I pause to note that during committee proceedings concerns were expressed about the perceived independence of the individuals to whom these investigative powers may be delegated. I understand that Senator Joyal will have something to say about this matter, so I will leave further discussion of this matter until then.

I will continue with the factors in the review process. The factors that will be considered in determining when an applicant may be entitled to a remedy are clearly set out in the proposed amendments.

Finally, ministers of justice will be held more accountable in that they will be required to provide an annual report to Parliament with respect to applications for a conviction review.

The government is confident that these amendments are the most efficient and effective way to improve the post-appellate, extrajudicial conviction review process at this present time.

Honourable senators, as you can see, Bill C-15A contains many significant amendments. I sponsored this bill mainly because of its focus on the protection of vulnerable members of society and, most notably, the protection of children from sexual exploitation. I have no reservation in seeking your support for its many important and positive elements, which I am confident will make a difference in the lives of Canadians. I am pleased to place it before you today to open our third reading debate.

[Translation]

**Hon. Pierre Claude Nolin:** Honourable senators, I will not be speaking today. I know that Senator Joyal wants to at least address clause 190, which in my opinion is the focus of the debate on third reading. We have amply discussed the other aspects of the bill. I should like to respond to Senator Joyal and Senator Pearson at the same time. For this reason, I call for adjournment of the debate, on behalf of Senator Joyal.

[English]

On motion of Senator Nolin, for Senator Joyal, debate adjourned.

## CANADIAN COMMERCIAL CORPORATION ACT

### BILL TO AMEND—THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Hervieux-Payette, P.C., seconded by the Honourable Senator Milne, for the third reading of Bill C-41, to amend the Canadian Commercial Corporation Act.

**Hon. Michael A. Meighen:** I am pleased to speak at the third reading debate of Bill C-41, which, as all senators by now will know, seeks to make limited amendments to the Canadian Commercial Corporation Act.

By now, we are familiar with these amendments, the first of which separates the functions of the chair of the corporation from those of the president; the second of which enables the corporation to set fees for services it provides outside the defence production sharing agreement with the United States; and the third of which allows it to borrow up to \$90 million, if necessary, on the commercial market.

[Translation]

Honourable senators, when this bill underwent second reading in December, I clearly explained my reservations concerning these amendments, as well as other aspects of the Canadian Commercial Corporation, particularly the increase of its borrowing power to \$90 million, which seems extreme, and the composition of its board of directors, which includes members whose skills and experience seem little related to what the corporation does.

I maintain those reservations, particularly as far as the borrowing power, which has been increased ninefold, is concerned. It boggles the mind that a corporation, most of the business of which is done within the context of the Canada-United States Defence Production Sharing Agreement, and for which it receives government funding, should suddenly find its resources stretched to such an extent that it is required to increase its borrowing power from \$10 million to \$90 million.

[English]

Honourable senators, we can only hope that the CCC uses its new-found borrowing capacity to substantially increase both its profile within Canada and, at the same time, the number of Canadian exporters doing business with foreign governments.

I say this in the light of two facts. The first is that the CCC is relatively unknown compared to its sister organizations, the Export Development Corporation and the Business Development Bank. The second is that by the CCC's own reckoning, more than 80 per cent of Canadian exporters did not even try to do business with foreign governments in 2000. One can only hope, then, that a proportionate amount of CCC's new borrowing power will be toward addressing these deficiencies.

At the very least, we expect the amount of business that the CCC conducts outside the DPSA to grow substantially. Hopefully, we can also expect that as business grows abroad, so too, do the opportunities for Canadian professionals—architects, engineers, designers and, indeed, if I may say so, lawyers—opportunities to take a leading role in the successful completion of these transactions.

Honourable senators, we Canadians often seem to hide our light under a bushel. We have some of the best professionals in the world willing and able to compete effectively against the very best. I am confident the Canadian Commercial Corporation will have no hesitation in recommending and promoting the involvement at the most senior levels.

Honourable senators, I wonder, too, if in the future we could not gain greater cost efficiencies by combining the activities of the CCC with the EDC, as my colleague Senator Kelleher has suggested on a number of occasions. In response, we are told that the activities of the two are distinct, given that the EDC provides loans and risk insurance while the CCC does not.

I wonder if that is not too fine a distinction. At the very least, could we not coordinate or even unite some administrative functions? The CCC does provide a kind of insurance when it provides a guarantee of contract performance to public sector buyers around the world on behalf of Canadian exporters. While it does not itself provide loans, it smooths the way to them when it facilitates access to bank financing for Canadian companies that need working capital to finance export contracts.

Honourable senators, having voiced these concerns, let me reiterate that we on this side will maintain our support for this bill.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.



[Translation]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of Franceline Bugge, recipient of the *Andrea and Charles R. Bronfman Award in Canadian Studies*. On behalf of all the senators, I welcome you to the Senate of Canada.

• (1410)

[English]

Honourable senators, I also notice the presence in our gallery of a former colleague, the Honourable Sheila Finestone. I should like to welcome her back to the chamber.

## CODE OF CANADIAN CITIZENSHIP BILL

## SECOND READING—DEBATE ADJOURNED

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition)** moved the second reading of Bill S-36, respecting Canadian citizenship.

He said: Honourable senators, in rising to speak in support of second reading of this bill, upon reflection it seems to me that the Senate of Canada is in an excellent position to contribute to the development of a contemporary 21st century approach to Canadian citizenship. I would hope that the Senate's study of this initiative will afford us the opportunity to build on our previous work in the field of Canadian citizenship — for example, the citizenship study that was completed by the Social Affairs, Science and Technology Committee, a report entitled "Canadian Citizenship: Sharing the Responsibility."

That report, among other things, contained the recommendation that Parliament "enact a new *Citizenship Act*...that the Act reflect the pluralist, officially bilingual and multicultural nature of Canadian society and that it provide a clear statement of citizenship rights and responsibilities."

Honourable senators, it is my hope that our reflection on citizenship in the Senate at this time will also build on the work that was undertaken by this house as we examined Bill C-16, a bill the government introduced but which died on the Order Paper with the call of the general election in 2000.

Honourable senators will know that only twice in the history of the Parliament of Canada has a comprehensive Canadian Citizenship Act been enacted, the first being in 1947, the very first time that we had a made-in-Canada Canadian Citizenship Act. The second was some 30 years later when, in 1977, Parliament passed a new — new for that time — Canadian Citizenship Act. Clearly, honourable senators, it is important that Parliament now enact a Canadian Citizenship Act that speaks to all Canadians in the Canada of our times, the Canada of the 21st century.

Before I get into the specifics of Bill S-36 and the reason we believe it builds on previous work, I should like to share a few

reflections on the whole notion of Canadian citizenship. As honourable senators know, the concept of Canadian citizenship has evolved from a limited idea in classical Athenian forms in ancient Greece to an expansive and multi-faceted modern notion. If the citizen of Athens was a particularly privileged male member of a small city state, after the French and American revolutions citizens, at least in theoretical terms, became the political actors of the modern nation state. In fact, since the end of World War II, the idea of the rights of citizenship has expanded, along with our concept of what governments should do for their citizens. While it may seem odd in a speech to support a new code of Canadian citizenship to quote from an American jurist, I can find no better definition or description of citizenship than in a passage of the late chief justice of the United States, Earl Warren:

Citizenship is a man's basic right for it is nothing less than the right to have rights.

The former American chief justice went on to describe citizenship as a "priceless possession." Upon reflection, we might ask, honourable senators, what are the values that we share as Canadian citizens, values that form the foundation upon which this country of ours was built? Obviously, one value is freedom. While most nations proclaim freedom, the word means more here than perhaps anywhere in the world, for I believe we are a community that seeks to make freedom personal, for all of our citizens.

Another value that I believe all Canadians eagerly embrace is that of fairness. Fairness is also a value that we cherish. We believe in helping those who are less prosperous in our communities, in our country and, indeed, around the world. We are a community of people who care for others, especially those with whom life has not dealt overly fairly. We show this through our commitment to maintain and improve our social safety net, our tradition of volunteerism and our commitment to lift up other countries, particularly countries in the Third World.

Our ability as Canadians to live together depends on our generosity towards each other. We, as Canadians, believe in sharing our good fortune with others, be it less prosperous provinces through equalization or less well-off folk who we nurture through sharing what we have. Another part of the essence of our citizenship is that we believe in equality, and not the cold equality of sameness, for here, we, as Canadians, accept differences. We know that treating everyone the same can indeed lead to gross inequalities. As with equality, we value our diversity. Canadians do not point to a pot and ask people to get in it and melt. The respect for others, for their differences, builds unity and has built this country. We respect diversity because we, as Canadians, are diverse.

This month we have been marking Black History Month, and we, as Canadians, believe that Black history is our history. Citizenship, honourable senators, is the vehicle through which we can share and celebrate these kinds of values and the many other values that Canadians articulate. It is our citizenship that is the vehicle that can help encourage all who reside in Canada to participate in the life of this country. Through this participation, a healthy bond is formed.

• (1420)

As the noted Canadian political scientist Alan Cairns commented, "We should think of citizenship as one of those central institutions in how we govern ourselves."

Citizenship also fosters a sense of belonging both for people born in Canada and all those who choose to come here from all over the globe. To this point, part of the model that this bill envisages is a Canadian citizenship act of the 21st century which speaks to the 33 million of us, not simply a naturalization act which was the object of the 1947 Canadian Citizenship Act and the 1977 act. Hopefully, the Senate of Canada will give focus to a model of Canadian citizenship to which each citizen of Canada is able to relate and, obviously, that it provide the means for naturalization.

Clearly, citizenship consists of rights acquired because of membership in our community. It is interesting that in our Canadian Charter of Rights and Freedoms, there are only three rights which are restricted to Canadian citizenship. Our Canadian way has been to extend rights to everyone in Canada. However, the right to vote is one of the three rights that is predicated in our Charter of Rights and Freedoms on Canadian citizenship. The right to sit in Parliament and all the rights and freedoms contained in our Constitution, including the Charter, are applicable to Canadian citizens and others.

Citizenship is more than a bundle of rights, which is perhaps why, upon reflection, there is a certain wisdom in the way the Canadian Charter of Rights and Freedoms was crafted and that it was not simply the key to rights. Citizenship carries with it not only certain rights but corresponding public responsibility to contribute to the common interest or to the common good. There is a balance to the rights of citizenship, and this is exemplified in the exercise of social, political and economic responsibilities. Citizens should contribute to the improvement of the country in all its material, social and cultural aspects.

As citizens, Canadians are equal members of a free nation under the rule of law, sharing both privileges and responsibilities. Today's citizens are the beneficiaries of those who came before the Aboriginal peoples and immigrants from many lands. We are the trustees, honourable senators, of those who will follow.

It is for all of this that we believe Canadians, for the world of today, need a new code of Canadian citizenship — a code of citizenship that speaks to all Canadians, those born in Canada and those who have chosen to acquire Canadian citizenship. It is a celebration of equality, a celebration of citizenship that we envisage.

There is a preamble attached to Bill S-36 wherein Canadian citizenship is described as a "special treasure" that should be "nurtured and promoted." The preamble recites Canada's rich legal traditions from both the civil and common law, including both the Bill of Rights and the Charter of Rights and Freedoms.

Our resources and democratic institutions, as well as our commitment to peace both at home and abroad, are set out in the preamble.

Quoting from the penultimate preambular paragraph, to recognize that:

...the citizens of Canada enjoy the benefits of peace and prosperity, and they should be given an opportunity to make a contribution, each according to their talents and abilities;

We felt, honourable senators, that a new code of Canadian citizenship that speaks to all in Canada should have a preamble. I recognize that it is a challenge to agree upon the poetry of a preamble, which is why we as a chamber might make the contribution by looking at it and seeing how it could be improved. The object is to make a contribution so that we would have the best Canadian citizenship code possible. In other words it is a matter of looking at this bill at this stage as a work in progress.

The bill provides a modern form of oath of loyalty that honourable senators will recognize as being the same as that contained in Bill C-16, a bill that the government introduced in the last Parliament but which died on the Order Paper with the election call. This bill provides that existing citizens may also subscribe to this oath as a reaffirmation of their loyalty to Canada should they so choose.

Briefly, Part 1 of the bill establishes the Canadian citizenship commission, whose duty it is to promote an understanding of the nature of citizenship and respect for its value. The commission will also advise the Minister of Canadian Heritage and the Minister of Citizenship and Immigration on proposed programs and events that will promote and celebrate Canada and Canadian citizenship. Citizenship councillors will be appointed to continue the work of the former citizenship judges. These citizenship councillors will preside at citizenship ceremonies, promote citizenship and may advise the minister on applications for citizenship. The members of the commission will be appointed from among those who hold the office of citizenship councillor.

Part 2 of Bill S-36 confirms the principal rights of citizens and their responsibilities and sets out the manner in which citizenship is acquired. It provides for the continued acquisition of citizenship at birth for everyone born in Canada. The residency requirement for immigrants and refugees to obtain citizenship will be based on actual presence in Canada.

The distinction made between adopted children and children born abroad of Canadian parents is lessened for the purpose of acquiring citizenship. The right to transmit citizenship to persons born abroad of Canadian parents is limited to the first and second generations. Specifically, clause 18 of the bill clearly states there is no difference between the results of the two methods of citizenship acquisition — by birth or naturalization. The same incidents of citizenship flow to the citizen.



Part 3 of the bill deals with naturalization. In clause 30, the general principle of the continuation of Canadian citizenship is set out. It is this part of the previous Bill C-16 that gave many senators from both sides the greatest amount of difficulty in the last Parliament. Bill S-36 still provides a method for the revocation of citizenship and the right of the minister to prohibit the grant of citizenship. These actions of the executive are subject to review by the Federal Court, something which was absent in Bill C-16.

•(1430)

I believe the integrity of Canadian citizenship is therefore protected by this bill. At the same time, those affected will be given notice and the right to a review of the executive action by the courts.

Bill S-36 finally establishes a code of Canadian citizenship that stresses equality between those born here and those who choose Canada. It sets out the privileges, rights and duties of citizenship. While providing for the protection of the integrity of Canadian citizenship, the bill now before us establishes a system of due process through access to the courts should the executive intervene to deny or revoke Canadian citizenship.

Honourable senators, I look forward to creative ideas and suggestions for improvement as we study the content of this bill. I do not see this matter as a partisan issue. My hope is that this house, given its wisdom and the work it has done in the past in the area of Canadian citizenship, can make a solid contribution to the enactment of a 21st century code of Canadian citizenship of which we can all be proud, one in which Canadians can see themselves expressed, reflected and mirrored, wherever they find themselves in this great land of ours.

With that, honourable senators, I would invite your reflection on this matter and look forward to our continuing inquiry into it.

On motion of Senator Cook, debate adjourned.

## NATIONAL ANTHEM ACT

### BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

**Hon. Vivienne Poy** moved the second reading of Bill S-39, to amend the National Anthem Act to include all Canadians.

She said: Honourable senators, I thank all of you who spoke in support of this amendment during the inquiry last year, senators who have indicated their support privately, as well as the many Canadians who have written to me on this issue, some of whom are assembled in the gallery today. I express my sincere thanks to Frances Wright, Jeanne d'Arc Sharp and the ad hoc committee of the Famous 5 Foundation for launching the petition to amend the national anthem last July on Parliament Hill. It is my pleasure now to speak to Bill S-39, to amend the National Anthem Act to include all Canadians.

I shall begin by outlining the specific amendment to the wording of the national anthem that I am proposing in this bill. I

will then explain why I believe this change to be an appropriate one socially, linguistically and ideologically. Finally, I will address some of the critics who argue that change is not necessary or justified.

The amendment I am proposing to the national anthem is a minor one. The words "thy sons" will be replaced by the words "of us." The verse will then read: "True patriot love in all of us command." Two words will change. That is all.

I should point out that the decision to choose "of us" was not mine but was based on the public's response, discussions with linguists and music historians. According to most of the letters I received and to the experts, these two words retain the fundamental meaning of the lyric, the poetry of the line, and fit well with the music. They are also in keeping with historic tradition. I will elaborate more on this later.

There has been some confusion since I began the inquiry on this issue, so I will explain what the bill is not intended to do. It is not my intention to propose changes to the French version of the national anthem. As well, I am not proposing that a reference to God be deleted from the anthem, and I am not proposing that other seldom-sung verses of the anthem be changed. The intent of this bill is simply to update the anthem so that it is more reflective of our society today as well as inclusive of more than 50 per cent of the population.

Honourable senators may ask: Why change the anthem at all? Perhaps the best answer can be found in many letters I have received from women, and men, who have asked me to bring this bill forward.

I should like to share with honourable senators the text of a letter I received from Dr. Marguerite Ritchie in response to my inquiry on the national anthem. She reflected back to the time when she first learned the national anthem in elementary school. She wrote:

I remember vividly my reaction on my first day of school when "O Canada!" was sung, and I knew immediately that, as a girl, I did not count for anything in Canada.

Similarly, as an impressionable teenager of 14, Catherine Clark realized the national anthem left her out. She wrote in *The Toronto Star*:

What struck my young mind that particular Canada Day was the lyric "in all thy sons command," and the fact that our anthem didn't refer to me, or anyone of my gender.

This amendment to the anthem is not only for our generation but also for future generations of girls and boys. It was because of these children that Judith Olson, a music teacher, launched the *O Canada Fairness Committee* to change the national anthem in 1993. In her music classes, Ms Olson said that students, especially the girls, would ask her, "What about the daughters? Don't we count?"

John Goldie wrote in a similar vein, urging me to continue with this campaign, because he "has long felt embarrassed that our national anthem did not include his wife and daughter."

Another man, Donald Jackson, wrote:

I am in my 80th year and I am a veteran of World War 2. It has bothered me for some time that the words of our national anthem: "true patriot love in all thy sons command" would seem to exclude women. I feel that this part of the anthem should read: "true patriot love in all of us command." A simple change, but it would include all Canadians, not just the men of Canada.

In the letters I have received, many people say they already substitute their own words for "thy sons" when they sing the anthem. I know a number of the members of this chamber, including Senator Pearson and myself, already substitute our own words for "thy sons."

In churches such as the United Church of Canada and the Presbyterian Church, parishioners are offered an alternative inclusive wording to "in all thy sons command" in their hymnals. The best-selling modern Bible, the New International Version, has just been updated so that all parishioners feel included. For example, the word "sons" in Matthew 5:9 has been replaced by the word "children" to read "children of God," and the word "man" in Romans 3:28 has been replaced by "person" to read "a person is justified by faith." Even *Time* magazine, which only a few years ago referred to "Man of the Year" now refers to "Person of the Year." The Canadian Press stylebook notes that words such as "spokesman" and "chairman" cause resentment, understandably, when applied to women.

If our churches and media can take the lead in changing their use of language in order to make everyone feel that they belong in the community, should we not as a national community amend the language of our national anthem to include all Canadian women so that everyone can feel a sense of belonging?

•(1440)

Our national anthem is one of the most important symbols of Canada, and as a symbol, it represents our fundamental ideals. Although we do not often reflect on the nature of our symbols and their importance in our lives, they represent our beliefs as a society. As Dr. Robert Birgeneau, President of the University of Toronto, wrote, the anthem is recognized as "one of our most powerful expressions of our Canadian identity."

The anthem takes on a particularly poignant meaning during international events, events such as the Winter Olympics in Salt Lake City, Utah. We have many great women athletes in our country. Should we not acknowledge them in our anthem? Last week, when Catriona Le May Doan stood on the podium after winning the first gold medal for Canada, in the 500-metre speed-skating race, should she not have been celebrated in the words of the anthem as it played for all the world to hear?

How do we define Canada as a nation on the world stage? We only have to observe the path Canada has taken since

World War II and consider the last two decades since the passage in 1982, of the Charter of Rights and Freedoms to conclude that Canada is defined by its rights culture. Michael Ignatieff wrote the following in *The Rights Revolution*:

Rights are not just instruments of the law, they are expressions of our moral identity as a people.

That this form of a rights revolution has allowed for inclusiveness is to Canada's credit. Women's rights are enshrined in the Charter, as Senator Beaudoin noted in this chamber last spring. Why then should women be excluded by omission in our anthem?

Should women in Canada have less recognition than the women of Australia? The committee that examined the words of their national song in the early 1980s replaced "Australian sons let us rejoice" with "Australians all let us rejoice" before "Advance Australia Fair" was proclaimed officially as the national anthem in 1984.

The truth is, this simple change should have been made in the anthem before it became official in 1980. As the well-known children's entertainers Sharon, Bram and Friends wrote to me:

One might have hoped that this issue would have been recognized and addressed when the lyrics were opened up for revision in 1980.

Let us not dig in our heels on this issue now, just because we missed the boat the last time. Let us consider the words of the Honourable Mitchell Sharp, who is with us today in the gallery who wrote to me in support of this amendment:

I was in the Pearson government that approved our national anthem and our Maple Leaf flag. I support your effort because I think it will add to the acceptability among Canadians of the words of our anthem. They will sing it with greater enthusiasm.

Many of the letters I have received are from writers, linguists, editors or educators who are sensitive to the impact of language. One writer noted that we are constantly changing our language to incorporate new words as a result of scientific, technical and social advances and that we have eliminated many racist terms over the years because we recognize that language both reflects and shapes the way we think. Nevertheless, we seem to be reluctant to acknowledge language that excludes women.

I should like to consider briefly some of the objections to this amendment.

Almost without exception, those who are opposed to an amendment to the anthem all raise the issue of tradition. Someone was reported in the media to have compared the Honourable Robert Stanley Weir's 1908 version of *O Canada!* to Shakespeare, saying it should not be changed. I agree that the 1908 version of *O Canada!* should never have been changed. According to the original text, which was first brought to my attention by Nancy MacLeod of Toronto, the lyrics of the 1908 version read as follows:

[ Senator Poy ]



O Canada!  
 Our home, our native land  
 True patriot love thou dost in us command.  
 We see thee rising fair, dear land,  
 The True North strong and free;  
 And stand on guard,  
 O Canada,  
 We stand on guard for thee.

As you can see, if we return to the original lyrics of *O Canada!*, our tradition as Canadians, even in 1908, was one of inclusiveness. Ironically, the original version of 1908 was a better reflection of our times than the anthem we sing today.

You may well ask why "us" was rewritten as "sons." The earliest printed version of the anthem with "in all thy sons command" was in a song entitled, "*O Canada! Our Father's Land of Old*" for the Common School Book published in 1913. The change was then copyrighted by Weir in 1914.

We can only speculate on the reason for the rewording. Perhaps, judging by the date, it was deemed necessary to give special recognition to the sons of Canada because Canada faced the prospect of war.

Throughout the last century, Weir's version of "*O Canada!*" grew in popularity, but it was not without its competitors. At least 26 versions of "*O Canada!*" have been circulated. Ironically, the title of the 1913 schoolbook version "*Our Father's Land of Old*" was borrowed from the Richardson version of "*O Canada!*" published in 1906. Other versions began with "*O Canada! Our heritage our love,*" "*O Canada! Our fair ancestral land,*" and "*O Canada, our country fair and free.*"

Weir himself changed his version of "*O Canada!*" twice, once in 1914, as I have already mentioned, and again, shortly before his death in 1926, to add a fourth verse of a religious nature to *O Canada!*.

At about the same time, the Association of Canadian Clubs was one of the first groups to adopt *O Canada!* as its official song. Please note that this group, with its venerable tradition in Canada, has declared its support for the amendment I am proposing.

In 1968, the words of the Weir version were altered once again in response to the recommendations of a Special Joint Committee of the Senate and the House of Commons. It is evident, therefore, that the lyrics of *O Canada!* have never been set in stone. Changes were made.

You will all agree, the traditions of today are not the traditions of yesteryear. A little more than 80 years ago, women did not have the right to vote. Just 30 years ago, it was traditional for women to stay at home, and very few were in the professions. Twenty years ago, there were few women in non-traditional occupations or in government. It was also traditional to use racist and sexist language in a hurtful manner that would be unacceptable today. Things have changed a great deal, and I think most of you would agree with me that they have changed for the better.

Nevertheless, for those who argue that we should not diverge from the original intent of the anthem out of respect for tradition, I would agree that we should return to Justice Robert Stanley Weir's original inclusive version of *O Canada!* of 1908 and reinstate the word "us" in the lyrics of the national anthem. By so doing, we will honour the spirit of Weir's anthem.

My proposal for an amendment has also been denigrated as being a matter of political correctness. "True patriot love in all thy sons command," it is argued, refers to those who died in wartime, and an amendment would somehow diminish our recognition of men's contributions.

According to Stuart Lindop of Alberta, just the opposite is true. I should like to share with honourable senators the text of a letter written by Mr. Lindop. He writes of his proposal in 1993 to his Member of Parliament, David Kilgour, to amend the national anthem to include women:

As a veteran, a volunteer, wounded in action liberating Holland, I am very well aware of the tremendous contribution made by women to Canada's war effort in the Armed Forces, in industry, and on the home front.

•(1450)

He goes on to say:

My motivation was not based on prissy, political correctness but rather to see that women, who had earned the right to be recognized, were not implicitly excluded.

I would challenge anyone to accuse Stuart Lindop, an 82-year-old veteran of World War II and a former member of the South Alberta Regiment, the only regiment to garner a Victoria Cross, of political correctness. Mr. Lindop wrote to me recently to assure me that this issue is of the utmost importance to the morale of women in the Armed Forces. He wrote:

Subtly, one might say subliminally, doubt about one's worthiness can have a tremendous impact upon one's behaviour in a crisis situation. How about women in our various units? Their national anthem doesn't consider them worthy of mention or recognition! Perhaps the government doesn't care.

Given women's involvement in the military, in peacekeeping operations all over the world and in the conflict in Afghanistan, I would agree with Mr. Lindop that women deserve recognition in our anthem. Women's contributions to Canada, whether in the military or in civilian life, should be recognized.

Honourable senators with sons and daughters will be amused to learn that I have been told that the word "sons" in the national anthem is generic and therefore also means daughters. If that were the case, why would the word "daughter" need to exist in the English language? I certainly know that I am not a son. I suspect that it is unlikely that our daughters and granddaughters would appreciate being referred to as "sons" and "grandsons."

There are also those who denigrate this amendment as insignificant, unnecessary and a waste of time. These people are often the most vocal and long-winded in their opposition. This begs the question: If the change is so insignificant, why oppose it? Let us not waste any time in passing this bill. It is, after all, a minor change that is in keeping with today's language as well as the original historic meaning of the anthem as set out by Justice Robert Stanley Weir in 1908, so why amend the anthem? Well, why not?

The rights of women are already enshrined in section 28 of the Charter of Rights and Freedoms. Equal rights are espoused at all levels of government, in private corporations and increasingly in the home. Today's young women, who are entering so-called non-traditional occupations in record numbers, expect to be included in our national anthem.

Admittedly, there are still many injustices, inequities and barriers to overcome. This amendment will not right these wrongs, but it will signal a change that reflects the value we as a society place on equal rights for all, to everyone in Canada and to the world.

Changes in women's status in Canada have not occurred overnight. Each woman who has taken the first step across an invisible barrier has paved the way for those who follow her. In this sense, this change is just another small step that moves women forward on our long journey toward equality.

As Maureen McTeer stated succinctly:

I believe this change will reconfirm our positive role in our country's past, and our commitment to participate at all levels in the future.

Honourable senators, it is clear to me that we all have a stake in ensuring the equality of opportunity for our future generations. We need to show Canadians that parliamentarians have the will to give real meaning to equality for all Canadians.

The Honourable Sheila Finestone is in the gallery with us today. When she was Secretary of State for the Status of Women, she said:

Equality rights are human rights — a basic principle that shapes the way we live, in good times and hard times. There is no one answer, no one action, no one player that can make equality happen. In the new century, the nations considered the leaders of the world will be those who have achieved gender equality.

Let us take one more step in the right direction, honourable senators. Let us join the leading nations of the world. I would ask that you support this amendment in the name of fairness, historic tradition, and because it is the right thing to do for all Canadians.

Honourable senators, with leave of the Senate, I wish to table letters that I have received from across Canada in support of this

amendment, as well as a number of other documents relevant to this debate.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I leave granted for Senator Poy to table these documents?

**Hon. Anne C. Cools:** Honourable senators, before we put this question to the senators, Senator Corbin suggested that the proper place to bring such documentation forward is in committee.

Senator Poy knows that I disagree with her on the substance of these issues, but to the extent that she has indicated that she wishes to table certain papers, I believe unanimous consent of the chamber is required. If Senator Corbin sees otherwise, he should speak for himself.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I leave granted for Senator Poy to table these documents?

**Hon. Senators:** Agreed.

[Translation]

**Hon. Gerald J. Comeau:** Honourable senators, I still have not decided whether I am going to support this bill. Before I do, I want to hear all the speeches and wait for the findings of the committee review.

Could Senator Poy tell us why she did not propose changes to the French version of the national anthem, which includes terms like "brothers," "fathers" and "king" which, in my opinion, are much less gender neutral? If the senator wants to be consistent with her proposed changes, should she not also examine the French version?

[English]

**Senator Poy:** To answer the honourable senator's question, the main reason I have proceeded with the English version is that I know the English language well and I do not know the French language well. I never attempt to do something that I do not know well enough to do. Certainly, any member of the chamber can propose an amendment to change the French version if they so wish.

I would never attempt to do something that I am not confident in doing. I also know that the French version is very different from the English one.

**Senator Cools:** Honourable senators, with Senator Poy's permission, I have a question of clarification.

Senator Poy has suggested that the original anthem had a different set of words in 1908. Honourable senators should be mindful that in 1908 *O Canada!* was not the anthem of Canada. Until quite recently, the national anthem of Canada was *God Save the Queen*.

I have two questions for the honourable senator.

[ Senator Poy ]



The first question is, historically, in countries such as ours and the United States of America, the national anthem was always thought to be a piece of music that grew up from the community at large, from what the British constitution would call the common law, the common man, the common people. It was never really thought that national anthems should be creatures or creations of Parliament.

Honourable senators, can Senator Poy tell us why she is suggesting that this anthem become a creature of Parliament? Once this amendment moves forward, I would submit there will be many amendments. Can Senator Poy tell us why she is proposing that we move the national anthem of Canada away from being something that came up from the bottom of the population itself to something from the top legislatures to be imposed on the people of this land? That is my first question.

**Senator Poy:** The National Anthem Act of 1980 was passed by Parliament and it made "*O Canada*!" the official national anthem of Canada. This is nothing new, as it was passed by both Houses in 1980.

**Senator Cools:** Honourable senators, it is not accurate to say "this is nothing new." Given all its limitations back then, Parliament was trying to be as consistent as it possibly could. Parliament at the time understood that national anthems were not really the business of Parliament to be messing about with.

They are usually traditional. That is the nature of anthems. Anthems are pieces of music that usually come from the past and are adopted; they tend to be retrogressive rather than forward-looking.

I shall have a chance to bring some of this forward in debate. Senator Poy knows I am opposed to this proposal. Senator Poy also knows that I do not agree with her analysis of history. I do not agree with that proposition at all. As a matter of fact, the proposition is the opposite. Blackstone and the great commentators on the common law tell honourable senators that.

I am coming to my question.

**Some Hon. Senators:** Question!

**Senator Cools:** I move the adjournment of the debate.

**The Hon. the Speaker pro tempore:** It is moved by the Honourable Senator Cools, seconded by the Honourable Senator Adams, that further debate be adjourned until the next sitting of the Senate.

Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Senator Cools:** On a point of order.

**The Hon. the Speaker pro tempore:** I recognize the Honourable Senator Kinsella.

**Senator Cools:** The fact of the matter is that we are three minutes into the debate and we are seeing the potential that it has for division.

**Some Hon. Senators:** Sit down!

**The Hon. the Speaker pro tempore:** Order!

**Senator Cools:** I have the floor.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, to the matter of order, I believe the order would be rectified if Senator Beaudoin, who had indicated that he wishes to speak in this debate, be now recognized. If it would be helpful, I move that Senator Beaudoin do now be heard.

**Hon. Marcel Prud'homme:** I have gone through that debate in the House of Commons under Prime Ministers Diefenbaker and Pearson, that Senator Beaudoin be now recognized. This is debatable.

**Senator Cools:** It is very debatable.

**Senator Prud'homme:** I am upset with the acrimony that this debate is generating. So many insanities are being said. Senator Forrestall and I are the only two surviving members of the committee created by Prime Minister Pearson in 1967. I would have hoped that this debate would lack acrimony, but I am seeing it developing.

Twice I have run back here from my office. Because of Senator's Comeau's question to Senator Poy, she has the floor. I wanted to ask Senator Poy a question.

**The Hon. the Speaker pro tempore:** There is a question on the floor as a motion to adjourn the debate. Senator Cools has moved the adjournment of the debate. Are honourable senators in favour of adjourning this debate until the next sitting of the Senate?

**Senator Kinsella:** The motion to express is the motion that Senator Beaudoin do now be heard. That is a debatable motion, and then the question can be put.

**Senator Prud'homme:** The first one is the adjournment.

**The Hon. the Speaker pro tempore:** Two senators were on their feet, but Senator Cools proposed the adjournment. I have on the floor a motion to adjourn.

It is moved by Senator Cools, seconded by Senator Adams, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Yes.

**The Hon. the Speaker pro tempore:** Will those in favour of the motion please say "yea"?

Some Hon. Senators: Yea.

**The Hon. the Speaker *pro tempore*:** Will those opposed to the motion please say "nay"?

Some Hon. Senators: Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the "nays" have it.

**Hon. Jack Wiebe:** Honourable senators, for my own personal clarification, can someone who has been granted leave to ask a question adjourn the debate?

**The Hon. the Speaker *pro tempore*:** The motion to adjourn the debate is defeated. The debate will continue. I recognize Senator Beaudoin.

[Translation]

**Hon. Gérard-A. Beaudoin:** Honourable senators, I wish to take part in the debate on Bill S-39, proposed by Senator Poy and dealing with a change to our national anthem.

At first glance, the English version of our national anthem seems discriminatory to Canadian women. I wish to say from the outset that I think it is possible to amend the schedule to the National Anthem Act.

My remarks will deal primarily with the historical and legal aspects of this issue. The 1982 Canadian Charter of Rights and Freedoms, which is at the core of our Constitution, includes a very important provision that enshrines the equality of both sexes.

[English]

I quote here the English version of section 28, which reads as follows:

Notwithstanding anything in this Charter, the rights and freedoms referred to in it are guaranteed equally to male and female persons.

[Translation]

This section means that section 33, the notwithstanding clause, which applies to section 15 on equality rights, cannot, in our opinion, apply to the principle of equality of both sexes. No legislator can, by using the notwithstanding clause under section 33, enact a law that violates the equality between men and women.

What about section 1 of the Charter, which deals with possible reasonable limits to equality?

[English]

Professors William Black and Lynn Smith have written on the meaning of section 28 of the Charter. In the third edition of our collective work, Beaudoin and Mendes, entitled *Charte*

*canadienne des droits et libertés*, at pages 894 and 895 it is stated:

•(1510)

The legislative history and the wording of the section also means that section 28 stands in the way of legislative override, pursuant to section 33, to permit sex discrimination. In addition, it probably modifies the power to uphold a discriminatory statute, program or activity under section 1, at least when proposed limitations deny, by intent or effect, the equal enjoyment of rights or freedoms guaranteed elsewhere in the Charter.

[Translation]

Section 28 of the Charter gives us an important point of reference.

[English]

Canada is probably the parliamentary democracy that protects most adequately the equality between men and women. Section 28 of the Charter clearly enshrines such equality. Furthermore, that section starts with a notwithstanding clause that clearly indicate that it is a very special section.

[Translation]

As Senator Poy has just mentioned, the national anthem is one of our symbols. Symbols are important.

Bill S-39 basically sets out to substitute the words "of us" for the words "thy sons" in the English version. What is involved and this is crucial, is a return to composer R.S. Weir's original wording, the first English version of our national anthem.

Senator Poy gave several good reasons for changing two words in our national anthem. I will not repeat her well-presented arguments. One of them, however, caught my attention. That was the argument that the amendment goes back to the original version. The words "of us" were already in the original version. And it was on the eve of the 1914-1918 war that the words were changed. The words "of us" written in 1908 are more respectful of our present values than the current version of our national anthem.

We must not forget that the recognition of the equality of men and women is one of the greatest events of the 20th century. In this regard, Canada is one of the most advanced nations in the world. It will be recalled that the constitutional amendment to recognize the equality of men and women in the republic to the south was not passed until the required number of states were on its side. Canada is the envy of many democracies.

In the past few years, in many milieux such as universities, the media and parliaments, there has been a trend in French toward feminizing titles, duties and designations, which were formerly used only in the masculine. For example, I could mention the following words: premier ministre, sénateurs, professeurs, auteurs, écrivains, presidents, and many more. This trend is meeting with increasing acceptance.



[English]

We must, however, distinguish the present problem from the famous *Persons* case. In the *Muir Edwards* case of 1930, our tribunal of last resort at that time, that is the judicial committee of the Privy Council, ruled that the word "persons" in section 24 of the Constitution Act includes women. The Parliament of Canada did not amend the Constitution of Canada. It was a judicial ruling. It was a question of constitutional interpretation.

[Translation]

The Canadian Constitution is made up of three elements: the constitutional texts, the courts' interpretation of these texts and finally, the conventions of the Constitution. Therefore, the famous Privy Council ruling from 1930 is part of our Constitution.

Some would say that we must avoid rewriting poems or literary works. This is true. I agree. However, here, we are using the original version from 1908, the two words "of us", from R.S. Weir himself. It was the author himself who used these words, we did not invent them.

[English]

In conclusion, I would say that here we are concerned only with one objective, which is the discrimination between men and women. We are quite justified to make such an amendment, having regard to section 28 of our Charter of Rights and Freedoms —

[Translation]

— a charter that is the envy of the world.

[English]

Honourable senators, I suggest that we vote for Bill S-39, as proposed by Senator Poy.

**Senator Cools:** Would Senator Beaudoin take a question?

**Senator Beaudoin:** I like questions, but I have some hesitation to some of them.

**Senator Cools:** My question is really quite simple. My understanding of this proposal is that it will delete the words "thy sons" and substitute the words "of us." Am I correct in that assumption?

**Senator Beaudoin:** That is right.

**Senator Cools:** Flowing from that, that verse in the anthem would then read "in all of us command."

**Senator Beaudoin:** Yes.

**Senator Cools:** Having said that, in the business of inclusion, do the words "of us" include all Canadians, all men, all women and all children?

**Senator Beaudoin:** Everyone is included. What more do you want? We cannot include the Americans. We are Canadians and all Canadians are included.

**Senator Cools:** You have not answered my question, which is that "in all thy sons command" means "in all of us command," right?

Senator Beaudoin gave a long answer, but I take it he meant that he agreed with my interpretation.

**Senator Beaudoin:** That is the genius of the English language. I do not want to make a mistake.

**The Hon. the Speaker:** Honourable senators, only one senator should have the floor at a time. I take it that Senator Cools has put a question to Senator Beaudoin. I would ask that she allow Senator Beaudoin an opportunity to answer.

**Senator Cools:** I am asking Senator Beaudoin if "of us" means all Canadians, every single Canadian, all men, all women and all children.

**Senator Beaudoin:** In my opinion, that phrase includes every Canadian, all of us. We are Canadians, whether we are men or women. In other words, constitutionally, if that is the question Senator Cools is asking, no one is excluded. That is the purpose of this amendment.

**Senator Cools:** To put the question another way, does it include children?

**Senator Beaudoin:** Yes.

**Senator Cools:** Very well.

**Senator Beaudoin:** They are included in the word "us." Everyone is included; every human being here who is Canadian is included.

**Senator Cools:** Therefore, my question to Senator Beaudoin is: How does Her Majesty command patriot love from children? That is a very profound question.

**The Hon. the Speaker:** Does Senator Beaudoin wish to answer?

**Senator Beaudoin:** Could the honourable senator repeat her question, please?

**Senator Cools:** Since Senator Beaudoin has said that the phrase "of us" includes everyone, and it includes all men, women and children, how does Her Majesty command patriot love in children?

**Senator Beaudoin:** I do not see any problem. We have lived under a constitutional monarchy for a long time, under the French and British regimes, and under the Canadian regime. There is a civil code in Quebec and common law in the other provinces. All our private law is taking care of family law.

•(1520)

I do not understand what the honourable senator meant by the comment. Obviously, if everyone is included, it means men and women, children and adults. Her Majesty is not excluded. On the contrary, Her Majesty is the Queen in right of Canada.

**Senator Cools:** I know.

**Senator Beaudoin:** If the honourable senator knows that, thank God.

**The Hon. the Speaker:** Does the Honourable Senator Cools have further questions?

**Senator Cools:** I had wanted to move the adjournment of the debate, honourable senators.

**The Hon. the Speaker:** To clarify, Senator Banks, who is the seconder of this motion, had asked for the floor to adjourn the debate, and I gave it to him. Senator Cools rose to ask a question. Senator Beaudoin gave permission for some of his time to be used for the Honourable Senator Cools to comment or to put a question.

Is the Honourable Senator Cools finished with that exchange, because Senator Ferretti Barth wishes to ask a question.

**Senator Cools:** I did not see Senator Banks. I had wanted to move the adjournment, but I would be happy to defer to him.

**The Hon. the Speaker:** I take it the honourable senator's exchange is completed.

Would Senator Beaudoin accept a question from Senator Ferretti Barth?

**Senator Beaudoin:** Certainly.

[Translation]

**Hon. Marissa Ferretti Barth:** Honourable senators, the national anthem exists for everyone, francophones and anglophones. If we change the English version, what happens to the French version? Are francophones in favour of this change? Senator Comeau expressed his concerns about this very clearly. We live in a bilingual country and we must respect this fact. Let us not play with words.

Honourable senators, nor can we change the content, as it represents a legacy that has been passed down from our predecessors. Let us not forget our fellow Canadians who speak French.

**Senator Beaudoin:** This is not the first time that the English version of legislation is amended without affecting the French. This is done quite often. I have done this all my life. We live in a bilingual country, with a bijural system that is one of the best democracies in the world.

We amend statutes when required. Here, someone has raised the fact that women are excluded from the English wording. I think this must be corrected. We are not required to do so, but we do have the ability. Since we have a good Charter of Rights, in which I believe, it is our duty to respond to this.

There was discussion of the French and English versions, but do not forget the fundamental argument, which I stress: that neither Senator Poy nor Senator Beaudoin invented the words "who of us", it was the author. So this is not a disavowal of

Mr. Weir, but a kind of honour to him. His 1908 version was more in line with the values of today than the version currently in use in Canada, which does not include women. This needs to be corrected. If you do not agree, you have only to vote against it.

**Senator Ferretti Barth:** What about the French version, honourable senators?

**Senator Beaudoin:** Honourable senators, if there is anyone interested in the French language, it is I, but I am not alone. There are many anglophones interested in the French language also. There is no point in looking for problems where there are none.

On motion of Senator Banks, debate adjourned.

[English]

## NATIONAL SECURITY AND DEFENCE

### STUDY ON HEALTH CARE SERVICES AVAILABLE TO VETERANS— BUDGET AND REQUEST FOR AUTHORITY TO ENGAGE SERVICES AND TRAVEL—REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the fourth report of the Standing Senate Committee on National Security and Defence (budget—study on Veterans Affairs), presented in the Senate earlier this day.

**Hon. Michael A. Meighen,** for Senator Kenny, moved for adoption of the report.

He said: Honourable senators, on March 6 and 7, 2002, the Subcommittee on Veterans Affairs will be travelling to departmental headquarters in Charlottetown for public hearings. During those hearings, we will address issues of deep concern to Canada's veterans and to all members of the subcommittee.

Among the subjects we will want to address with the deputy minister and his officials are post-traumatic stress syndrome with reference, no doubt, to the military ombudsman's recent report; health care for veterans, including the criteria for hospital admission; the home care program for veterans and their spouses; known also as the Veterans Independence Program, or VIP; and the pension appeal process.

Honourable senators, I wish to emphasize that this is not simply a fact-finding mission but, rather, a full-fledged public meeting on the record with recording and transcription. I am sure all members will find it highly beneficial.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I have a question for Senator Meighen. Am I to understand that your committee will be meeting with the members of the Veterans Review and Appeal Board?

**Senator Meighen:** No. I do not think we will be meeting with members of the appeal board. We will certainly be hearing from officials. If there are any members present, we will have an opportunity to exchange views as to how the process before the board works.



**Senator Kinsella:** Could the honourable senator tell us how many members of the Veterans Review and Appeal Board were not members of the Liberal Party before they became members of the board?

**Senator Meighen:** That would probably depend on the longevity of the very few Tories who were appointed many years ago. Given the fact that Tories are a tougher bunch, I imagine it is not exactly 100 per cent staffed by members of the Liberal Party but close to it.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, it would be hard to find Tories to sit on boards right now because there are not too many of them.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

• (1530)

## THE NATIONAL ANTHEM

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Poy calling the attention of the Senate to the national anthem.—(*Honourable Senator Cools*).

**Hon. Anne C. Cools:** Honourable senators, I had intended to speak to this inquiry, but there is no need because Bill S-39 is now before us. Having said that, I think I shall hold my remarks for the bill itself.

**The Hon. the Speaker:** Do you wish this item to stand, Senator Cools, or do you wish to ask for consent to withdraw the motion?

**Senator Cools:** I have no motion before the chamber. I am not withdrawing anything. I am only saying there is no need for me to speak. This debate is now exhausted. The need for this item even being on the Order Paper is now obsolete. It has been replaced by Bill S-39.

**The Hon. the Speaker:** Unless a senator wishes to adjourn it, this matter will be considered debated.

[Translation]

## FOUNDATION TO FUND SUSTAINABLE DEVELOPMENT TECHNOLOGY

RESOLUTIONS OF STANDING SENATE COMMITTEE ON ENERGY,  
THE ENVIRONMENT AND NATURAL RESOURCES, AND ON  
NATIONAL FINANCE ON BILL C-4—MOTION TO FORWARD  
TO COMMONS—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator DeWare, seconded by the Honourable Senator Kinsella:

That the Senate endorse and support the following statements from two of its Standing Committees in relation to Bill C-4 being An Act to establish a foundation to fund sustainable development technology.

From the Fifth Report of the Standing Senate Committee on Energy, the Environment and Natural Resources the following statement:

"The actions of the Government of Canada in creating a private sector corporation as a stand-in for the Foundation now proposed in Bill C-4, and the depositing of \$100 million of taxpayer's money with that corporation, without the prior approval of Parliament, is an affront to members of both Houses of Parliament. The Committee requests that the Speaker of the Senate notify the Speaker of the House of Commons of the dismay and concern of the Senate with this circumvention of the parliamentary process."

From the Eighth Report of the Standing Senate Committee on National Finance being its Interim Report on the 2001-2002 Estimates, the Committee's comments on Bill C-4:

"Senators wondered if this was an appropriate way to create such agencies and crown corporations. They questioned whether the government should have passed the bill before it advanced the funding. The members of the Committee condemn this process, which creates and funds a \$100 million agency without prior Parliamentary approval."

And that this Resolution be sent to the Speaker of the House of Commons so that he may acquaint the House of Commons with the Senate's views and conclusions on Bill C-4 being An Act to establish a foundation to fund sustainable development technology.—(*Honourable Senator Robichaud, P.C.*).

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I am again taking the floor regarding the motion of Senator DeWare — who left us some time ago — regarding Bill C-4, to establish a foundation to fund sustainable development technology.

Honourable senators, this issue has been discussed at length here and also on several occasions in the other place. It was even the object of a point of order, and the Speaker in the other place

issued a ruling on the issue raised. The government pledged to make the necessary changes during the presentation of the Supplementary Estimates.

In the Senate, this whole issue was fully examined and discussed during the debate surrounding Appropriation Bill No. 3, 2001-02. On December 13 and 14 of last year, the Leader of the Government in the Senate, the Honourable Senator Carstairs, and the Deputy Chair of the National Finance Committee, the Honourable Senator Finnerty, reported repeatedly on the situation and presented the government's response.

It was confirmed that the situation would be corrected when the Supplementary Estimates were presented during the coming weeks. Since this matter has been sufficiently studied and debated, the corrective measures necessary will be taken at the end of this fiscal year.

Honourable senators, I firmly believe that there is no need to send a message to the Speaker of the other chamber, since the Speaker of the Senate has already expressed an opinion on this matter.

On motion of Senator Kinsella, for Senator Meighen, debate adjourned.

[English]

## NOMINATION OF HONORARY CITIZENS

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Prud'homme, P.C., calling the attention of the Senate to the way in which, in the future, honorary Canadian citizens should be named and national days of remembrance proclaimed for individuals or events.—(*Honourable Senator Banks*).

**Hon. Tommy Banks:** Honourable senators, yesterday we received the happy news of the passage in the other place of a welcome act that does just actually what is being referred to in this inquiry. We now have before Parliament other bills that have the same aim or similar aims.

I hope that this inquiry of Senator Prud'homme will lead to careful consideration by Parliament of the means by which we in Canada establish days of recognition and honorary citizenship. There are five or six bills now before Parliament, or recently passed, that seek to establish days of recognition for important events or to honour distinguished Canadians. This is, I believe, the way in which it ought to be done — by acts of Parliament. However, there are recognitions and proclamations that have sometimes been given otherwise than by acts of Parliament. This is not to question in any way the worth of the persons or the significance of the events so recognized and so honoured. It is, rather, to examine the means and the process by which these determinations are made.

National honorifics are things that Canada should guard jealously and give sparingly and after careful consideration, lest their frequency and number dilute their intended value and lessen

in any way the pride which we take in giving them and which they are received. It should, I believe, be Parliament, Parliament, and only Parliament alone that makes those kinds of determinations.

In that belief, and for those reasons, I commend the attention of honourable senators to the inquiry of Senator Prud'homme.

**Hon. Marcel Prud'homme:** I thank my colleague for his graciousness. I asked him, if I was to be absent, to speak on my behalf, and I arranged it with the Deputy Leader of the Government. I thank him for his courtesy.

**The Hon. the Speaker:** Just to clarify, Honourable Senator Prud'homme is entitled to speak in reply, but so doing would have the effect of closing the debate.

On motion of Senator Cools, debate adjourned.

## RECOGNITION AND COMMEMORATION OF ARMENIAN GENOCIDE

### MOTION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Maheu, seconded by the Honourable Senator Setlakwe:

That this House:

(a) Calls upon the Government of Canada to recognize the genocide of the Armenians and to condemn any attempt to deny or distort a historical truth as being anything less than genocide, a crime against humanity

(b) Designates April 24th of every year hereafter throughout Canada as a day of remembrance of the 1.5 million Armenians who fell victim to the first genocide of the twentieth century.—(*Honourable Senator Cools*).

**Hon. Anne C. Cools:** Honourable senators, as we can see, we have reached day 15 on this particular question. As honourable senators know, it had been my intention to speak to this matter

This particular item is one of great importance to Senator Setlakwe, and he and Senator Maheu caused this motion to be put before us. This motion essentially asks the Senate to ask the government to recognize the genocide of the Armenians and condemn any attempt to deny or distort historical truth as being anything less than genocide, a crime against humanity.

Honourable senators, I had been intending to speak on this matter because it is a very important question, but the important fact is that it is a question of some enormity and some complexity which is not immediately apparent in the wording of the resolution. In addition to the substantive issues contained in the motion, there are also several issues that I would consider to be procedural questions in the scripting and drafting of the motion. I have not had sufficient time to prepare the kind of response that this proposal demands, particularly in an area of complexity of which is marked by the fact that if the resolution were to carry, we would be assigning a legal effect and legal



abilities, and perhaps legal obligations and rights as well, *ex post facto*, which is indeed extremely unusual. Honourable senators must remember that the term "genocide," with the heavy onus and the legal burden it carries, did not exist at the time of this terrible tragedy.

On motion of Senator Cools, debate adjourned.

## NATIONAL FINANCE

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

**Hon. Lowell Murray**, pursuant to notice of February 19, 2002, moved:

That the date for the presentation by the Standing Senate Committee on National Finance of the final report on its study on the effectiveness and possible improvements to the present equalization policy, which was authorized by the Senate on June 12, 2001, be extended to March 22, 2002.

He said: Honourable senators, I believe you are entitled to an explanation, which I will provide. This is, as senators know, an important, contentious and complex subject. We completed our public hearings some time ago. We are making slow but sure progress in the drafting process. We are now or shortly will be on draft No. 5, and I expect that we will have completed our work and will be ready to table a report and recommendations within the deadline I am seeking to establish by this motion.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## HUMAN RIGHTS

### COMMITTEE AUTHORIZED TO STUDY CANADA'S ADHERENCE TO INTERNATIONAL HUMAN RIGHTS INSTRUMENTS

**Hon. A. Raynell Andreychuk**, pursuant to notice of February 19, 2002, moved:

That the Standing Senate Committee on Human Rights be authorized to examine and report on the status of Canada's adherence to international human rights instruments and on the process whereby Canada enters into, implements, and reports on such agreements; and

That the Committee report to the Senate no later than March 31, 2003.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Would Senator Andreychuk accept a question? If

we agree to pass this motion, will the committee travel abroad and incur expenses that have not already been approved in the budget of the committee?

**Senator Andreychuk:** Honourable senators, a budget has been prepared and passed to Senator Furey, as requested in the letters to all Chairs. The committee met to consider a plan of action, and I can go through the entire plan although the committee unanimously agreed to it. It is, in fact, to examine several instruments that have not been signed or ratified and to ascertain the circumstances surrounding the lack of ratification of those instruments by Canada. That would entail a small research contract for someone to collate all of those instruments and bring them forward to the committee for discussion. We intend to hold hearings in Canada and to use video conferencing to communicate with witnesses in New York, et cetera.

This is the sum total of the areas of study that we dealt with in the report we tabled here in December. In that report, we enumerated six or seven areas we wished to study in detail. Since we made specific recommendations, we were of the opinion that we did not need further study in those areas at that time. However, the committee has come to realize that some areas do require further study.

One area that we believe may require consideration at a later date, and which is not part of this request, is the right to privacy. We have set that aside.

The committee wants to build on the work it has done. We plan to do an in-depth study of the instruments I mentioned, by hearing further witnesses either here or by video conferencing.

We are, however, contemplating two areas that would require the committee to travel. In doing so, the committee would investigate the operations of the Inter-American Court of Human Rights as well as the operations of the human rights machinery of the United Nations and other international organizations in Geneva. Those two contingencies are contemplated in this budget.

We have a program set out for two years. When we looked at the cost of doing consultations in Canada, et cetera, we were mindful of comments made in this chamber that we should work as expeditiously as possible. In that regard, we plan to use video conferencing wherever possible. We have outlined a one-year program, which contemplates a continuance of the study. If we should be fortunate, if Parliament sits for the full time, we may be able to complete our study ahead of schedule.

Nevertheless, we have contemplated some travel in this budget. I think it is an efficient use of resources. Approximately \$230,000 has been budgeted for that purpose.

Our committee discussed the fact that we need more guidance on the subject of human rights from our leadership and from the Internal Economy Committee. Each committee could do valuable consultations across this country and do more in-depth research beyond our borders. It is a question of balancing, that is, how to do our work in a fair way with other committees.

Although our committee wanted to do more, we took a middle-of-the-road approach, recognizing the mandate we were given by the Senate to study human rights issues. We intend to be as efficient as possible. I hope the Internal Economy Committee agrees with this approach. It will hear from me in great detail.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

### ADJOURNMENT

Leave having been given to revert to Government Notices Motion:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 5, 2002, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, March 5, 2002, at 2 p.m.



**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
 Thursday, February 21, 2002

**GOVERNMENT BILLS**  
 (SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd 01/06/06	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01	01/12/18	30/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament					

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negotiated 01/12/10	11 1 at 3rd 01/12/13	01/12/18		
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01
C-15 A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs	02/02/19	2			
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01



No.	Title	1st	2nd	Committee	Report	Amended	Original	Supp.
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce	—	—	—	—
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	16/01
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	24/01
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	33/01
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	28/01
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21)	01/11/27	Energy, the Environment and Natural Resources	—	—	—	—
		01/11/22 (reintroduced)						
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs	—	—	—	—

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples	02/02/19	0	02/02/20		
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources					
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0	02/02/21		
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

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No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		

## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		



No.	Title	1st	2nd	Committee	Report	0	01/06/05	01/06/07
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications		0	01/06/05	01/06/07
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament				
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31						
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—		—	01/02/08	Senate agreed to Commons amendment 01/12/12
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology		0	01/12/14	
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)				
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology		0	01/04/26	01/05/01
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources		0	01/05/10	01/05/15
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10		0	01/11/27	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications				
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12						
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)			(01/12/14)	

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13							
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							
S-39	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/02/19							



## PRIVATE BILLS

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S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01

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CANADA

# Debates of the Senate

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37th PARLIAMENT

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 5, 2002

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*

This issue contains the latest listing of Senators, Officers of the Senate, the Ministry,  
and Senators serving on Standing, Special and Joint Committees.

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## THE SENATE

Tuesday, March 5, 2002

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair. [English]

Prayers.

The single largest award in the competition, \$21.6 million, went to Dr. Janet Rossant to support her ongoing research at the Toronto Centre for Comparative Models of Human Disease, at Mount Sinai Hospital. This is an indication of the critical role that health research plays in Canada's R&D enterprise.

I know that the honourable senators will join me in congratulating CFI's President and Chief Executive Officer, Dr. David Strangway, and his adviser, Dr. Denis Gagnon, on the tremendous achievement of this award.

### SENATORS' STATEMENTS

#### CANADIAN FOUNDATION FOR INNOVATION

**Hon. Yves Morin:** Honourable senators, on January 30, 2002, the Canada Foundation for Innovation made history by awarding \$779 million to 280 projects at Canadian universities. This is the largest investment in the history of Canadian government support for university research.

These investments will contribute to achieving the goal of the Government of Canada to become one of the top five countries in the world in terms of R&D spending as well as to become one of the most innovative nations in the world by 2010.

[Translation]

We are all aware of the importance the Prime Minister and his cabinet attach to scientific innovation as an instrument of well-being and economic development for Canadians. As well, we are all familiar with the role the Prime Minister played in the creation of the Canada Foundation for Innovation in 1997.

[English]

An R&D enterprise is based first and foremost on people. However, we cannot train the next generation of researchers in substandard facilities. We cannot attract the world's best researchers to Canada by offering them outdated laboratories.

This historic investment will provide research institutions and their researchers with the means they need to become leaders in the global knowledge-based economy.

The awards span the country, from the Atlantic Centre for Comparative Biomedical Research to a University of British Columbia project examining spinal cord regeneration.

[Translation]

At Laval University, this funding will create an operational genomics laboratory located at the CHUL, while in Montreal it will guarantee development of the Integrated Genomics Group for Research on Infectious Pathogens, while at the same time ensuring the expansion of genomics and proteomics infrastructure in Quebec.

#### RACIAL DISCRIMINATION

##### EFFECT OF ANTI-TERRORISM ACT

**Hon. Donald H. Oliver:** Honourable senators, I rise to call attention to a new problem of racial profiling arising specifically from the case of Selwyn Pieters.

In May of 1999, Selwyn Pieters, a Black federal employee and part-time law student, was personally harassed and his luggage searched at customs upon his return to Canada from New York. The only ground for this search was the fact that he was Black. When Mr. Pieters complained to a senior customs officer, he was further insulted with a racial slur. He filed a formal complaint and won his case.

On January 18, 2002, Canada Customs settled out of court with Mr. Pieters to avoid a five-week Canada Human Rights Tribunal hearing. Mr. Pieters received an apology and an undisclosed amount of cash in the settlement. I believe that Canada Customs must now hire an anti-racism expert to train customs officers on such principles as equality rights, the Charter of Rights and Freedoms and matters relating to Canadian diversity.

Honourable senators, the case of Selwyn Pieters is evidence of racism in Canada that has been made worse by the events of September 11. For instance, under Bill C-36, Canada's anti-terrorism legislation, anyone who is not White can now automatically be under greater suspicion and face greater scrutiny, more questions and more searches.

Honourable senators, what concerns me is that the introduction of Bill C-36 has legitimized racial profiling. Such profiling perpetuates the harmful stereotype of African-Canadians as criminals. Of course, racial profiling existed before, but it is now worse, much worse. Customs officials can now rely upon race, ethnicity or national origin when considering who to search, to question or to detain at our borders. Criminality is now essentially categorized by what colour you are, what language you speak or where you were born, and perhaps even what you look like in the eyes of a border guard. I ask, honourable senators: What type of objective standard is that?



One condition of the settlement is that customs officers must now tell all travellers who are picked up for a secondary search, the reason for being inspected. I and others who share my concerns will be watching closely to see how Canada Customs implements the conditions of its settlement with Selwyn Pieters.

In conclusion, honourable senators, over the weekend I finished my thirteenth Black History Month speech in Edmonton. I am more convinced than ever that the study and teaching of Black history and of our cultural, scientific and economic achievements is the greatest way for us to overcome the racism in Canada, implicit in the Pieters case.

## BRITISH COLUMBIA

### FIRST PROVINCIAL CONGRESS AND FIRST CELEBRATION OF EID UL-ADHA IN LEGISLATURE

**Hon. Mobina S.B. Jaffer:** Honourable senators, I rise today to recognize two firsts in the history of British Columbia that I was honoured to be witness to over the past week.

The first of these ground-breaking events was the British Columbia Provincial Congress, held on Tuesday, February 26, 2002. Premier Gordon Campbell launched the provincial congress as a platform for dialogue between representatives from all levels of government, Aboriginal leaders and industry spokespeople. This congress was important because it created a forum for participants to have an open and transparent discussion. The Morris J. Wosk Centre for Dialogue at Simon Fraser University could not have been a more appropriate venue for the event.

Iona Campagnolo, the Lieutenant-Governor of British Columbia, in her presentation remarked that dialogue is not about winning arguments, but listening with empathy as a basis for agreement and understanding. In that spirit, we spoke about the diverse issues that face the people of British Columbia, such as transportation, the costs of securing our seaports and aviation facilities, and issues facing our Aboriginal communities.

•(1410)

The second first was the celebration of Eid-ul-Adha in the provincial legislature in Victoria on Wednesday, February 27. Eid-ul-Adha commemorates the willingness of the Prophet Ibrahim to sacrifice his son at Allah's command. This is an important time for Muslims to come together as a community.

Eid-ul-Adha was celebrated in many cities throughout the country, and for the seventh year in a row, Eid celebrations were held on Parliament Hill. The Association of Progressive Muslims of Ontario and the Ismaili Council for Ottawa organized the event, which attracted over 300 people, including 25 ambassadors, many MPs and senators. Significantly, there was representation from all five national political parties.

Building on the tradition of the Parliament Hill gathering, the first ever Eid celebrations were held in Victoria. The event brought together Premier Campbell, the majority of members of the legislative assembly, 250 members of the B.C. Muslim community, comprising the Muslim Canadian Federation, the

Ismaili Council of B.C., the B.C. Muslim Association and the Shia Muslim Community.

I hope that all honourable senators will join me in thanking the organizers of these two firsts and hope that they will pave the way for similar events in our pluralistic society.

## VISIONTV

### CONGRATULATIONS ON RECEIVING EMPLOYER OF THE YEAR CITATION FROM CANADIAN WOMEN IN COMMUNICATIONS

**Hon. Lois M. Wilson:** Honourable senators, on Monday, February 25, in Ottawa, VisionTV, Canada's only multifaith and multicultural broadcaster, received the prestigious Employer of the Year Citation from Canadian Women in Communications. This award is given to a communications industry employer that has established a strong track record and shown leadership in promoting women, particularly in non-traditional roles. The evening's proceedings were chaired by Senator Poulin.

Founded in 1987 as the world's only multifaith broadcaster, this independent, not-for-profit station provides access to a full spectrum of religious expression, ranging from Anglicans to Zoroastrians. In the beginning, VisionTV had no financial resources of its own. Five faith groups provided letters of guarantee to secure an operating line of credit. Four Christian churches and the Seventh Day Adventists formed the base and encouraged more than 20 other faith communities across Canada to support the application to the CRTC. These include the Baha'i, Buddhist, Muslim, Jewish, Sikh, Unitarian and Aboriginal Spirituality.

The workforce of VisionTV is predominantly female, with women holding approximately two thirds of positions. At the senior management level, women fill more than 70 per cent of the top jobs, including the vice-president of finance and administration and the vice-president of communications and marketing. Over the past five years, membership on the board of directors has averaged nearly 50 per cent. VisionTV has earned a reputation for placing women of many different ages and backgrounds before the camera, and has consistently sought female perspectives on current issues.

VisionTV's mandate calls for the promotion of tolerance and understanding between people of different faiths and cultural backgrounds. Five of the ten VisionTV persons at our table, the night of the award, were visible minorities. The network has declared its intention to remain an industry leader in reflecting the country's variety of faiths and cultures.

VisionTV is committed to taking a number of measures related to the hiring and retention of visible minorities and Aboriginal peoples — from reviewing human resources policies and procedures to providing formal training on diversity issues.

The network is distributed to over 7.8 million homes in Canada and has a staff of 72, with regional offices in Victoria, B.C. and Halifax, Nova Scotia. I am proud to be associated with a relatively small but immensely significant player in the Canadian media field.

[Translation]

## VICTOR HUGO

## TRIBUTE ON BICENTENARY OF BIRTH

**Hon. Gérald-A. Beaudoin:** Honourable senators, at Besançon, France, two hundred years ago, on February 26, 1802, Victor Hugo was born; that great writer, dramaturge and novelist, considered the greatest poet in the French language.

He is still a very famous figure in all francophone countries, as well as a number of others, such as our own, the United Kingdom and the United States. His works have been translated into many languages. This year is the bicentenary of his birth.

People see his dramas performed, they read his novels, including *Notre-Dame de Paris* and *Les Misérables*. Magnificent stagings of his works take place in many major cities and world capitals.

He is recognized for his genius, his great compassion, and his avant-garde ideas on the death penalty, the United States and Europe. His literary output was immense. He was elected to the Académie française in 1841.

Victor Hugo was a cult figure. Two hundred years after his birth, he is still referred to with the same admiration as Molière, Goethe, Cervantes and, of course, William Shakespeare.

Victor Hugo was made a peer of France in 1845, that is, a senator. A plaque marks his seat at the Palais Bourbon in Paris. I am very pleased to pay tribute today, in this Chamber, to the vibrant memory of Victor Hugo.

[English]

## HERITAGE

SCREENING HOSTED BY MINISTER OF FILM ON CANADA'S  
RESPONSE TO EVENTS OF SEPTEMBER 11, 2001

**Hon. Laurier L. LaPierre:** Today, in the capital city of the United States, the Minister of Canadian Heritage, the Honourable Sheila Copps, hosts a screening of an Alliance-Atlantis remarkable documentary based on an as-remarkable book entitled *A Diary Between Friends* which, I believe, all senators have received — published by McClelland and Stewart, the Canadian publisher.

Both the documentary and the book, which were the initiatives of Ms Copps' department, tell stories of hundreds of Americans and other nationals who were stranded in our country on September 11, 2001, and, particularly, of those who welcomed them. On that day and the few days thereafter, Canadians demonstrated their traditional civility, their constant love of peace and friendship and their unrelenting understanding of the great value of cultural diversity or pluralism. The Canadians interviewed in the documentary and for the book opened their

homes and their hearts to perfect strangers who became friends, and they toiled to help them and to make their passage among us secure, friendly and hospitable. On September 11, the "Canadian way" was again a beacon of light in a world endangered by the evil of terrorism.

In her remarks to the distinguished gathering at the Canadian Embassy in Washington, the minister will state clearly what this country and its citizens are all about and what our duty is after September 11, 2001:

Terrorism must not affect our fundamental values and freedoms. It is my hope that out of the great tragedy of September 11, we can reach even better understanding and appreciation of humanity's diversity, rather than letting those differences tear us apart.

Amen and long live Canada.

[Translation]

## OFFICIAL LANGUAGES

PRESS CONFERENCE ON RELEASE OF JOINT COMMITTEE REPORT  
ON SERVICES OFFERED BY AIR CANADA—  
REPRESENTATION OF SENATE

**Hon. Jean-Robert Gauthier:** Honourable senators, on Monday, February 18, the Standing Joint Committee on Official Languages finished its report on services offered in both official languages by Air Canada. On Wednesday, February 20, the Co-Chair of the committee, the Honourable Mauril Bélanger, informed me that he intended to table the report in the House of Commons on Thursday, February 21.

[English]

A press conference was called by some members of the House of Commons. To my knowledge, no senators were present. A press report stated that the House of Commons committee had reported after a very lengthy study on the questions of official languages and Air Canada. The title of the report was "Air Canada: Good intentions are not enough." No mention was made of the serious and, I would say, important contributions of the Senate to this report, although we have been members of that committee since its beginning.

I do not blame the members of Parliament for calling a press conference. We received some rather good publicity — good media coverage, as we say. However, I regret, in all honesty, that the Senate was not present at that press conference because, when a committee of both Houses studies a subject matter and reports on it, it only stands to reason that both Houses should be there to explain the recommendations. Members of the House of Commons were there to do that and we were not. I regret that immensely. It is about time this house had its own committee on official languages.



[Translation]

## ROUTINE PROCEEDINGS

### THE ESTIMATES, 2001-02

SUPPLEMENTARY ESTIMATES (B) TABLED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, pursuant to rule 28(3) of the *Rules of the Senate*, I have the honour to table a document entitled "Supplementary Estimates (B), 2001-2002."

### THE ESTIMATES, 2002-03

TABLED

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, pursuant to rule 28(3) of the *Rules of the Senate*, I have the honour to table a document entitled "Estimates, 2002-2003."

• 1420 •

[English]

## ROYAL ASSENT BILL

REPORT OF COMMITTEE

**Hon. Jack Austin,** Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, March 5, 2002

The Standing Committee on Rules, Procedures and the Rights of Parliament (*formerly entitled the Standing Committee on Privileges, Standing Rules and Orders*) has the honour to present its

### TENTH REPORT

Your Committee, to which was referred Bill S-34, An Act respecting royal assent to bills passed by the Houses of Parliament, in obedience to the Order of Reference of Thursday, October 4, 2001, has examined the said Bill and now reports the same with the following amendments, with observations which are appended to this report as Appendix A, and with a letter to the Chair of the Committee from the Honourable Ralph Goodale, Leader of the Government in the House of Commons and the Honourable Senator Carstairs, Leader of the Government in the Senate as Appendix B.

1. *Page 1, New Preamble:* Add after the long title the following:

"Whereas royal assent is the constitutional culmination of the legislative process;

Whereas the customary ceremony of royal assent, which assembles the three constituent entities of Parliament, is an important legislative tradition to be preserved;

And whereas it is desirable to facilitate the work of Parliament and the process of enactment by enabling royal assent to be signified by written declaration:"

2. *Page 1, Enacting Clause:* Replace line 1 of the English version with the following:

"Now, therefore, Her Majesty, by and with the advice and consent of the Senate,"

3. *Page 1, Clause 2:* Replace lines 9 to 14 with the following:

"(a) in Parliament assembled; or

(b) by written declaration."

4. *Page 1, Clause 3:* Replace lines 15 to 17 with the following:

"3. (1) Royal assent shall be signified in Parliament assembled at least twice in each calendar year.

(2) Royal assent shall be signified in Parliament assembled in the case of the first bill of the session appropriating sums for the public service of Canada based upon main or supplementary estimates."

Respectfully submitted,

JACK AUSTIN, P.C.  
Chair

(For text of appendices, see today's Journals of the Senate p. 1254)

On motion of Senator Austin, report placed on Orders of the Day to be taken into consideration at the next sitting of the Senate.

## SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES

REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE TABLED

**Hon. Tommy Banks:** Honourable senators, I have honour to inform the Senate that on Friday last, the Standing Senate Committee on Defence and Security deposited with the Clerk of the Senate, according to its order of reference, its report on Canadian security and military preparedness.

I move that this report be placed on the Orders of the Day for consideration at the next sitting of the Senate.

**Hon. Terry Stratton:** Honourable senators, may I ask a question of Senator Banks?

**The Hon. the Speaker pro tempore:** Honourable senators, I leave granted for Senator Stratton to ask a question of Senator Banks?



**Hon. Senators:** Agreed.

**Senator Stratton:** Honourable senators, I have heard that this is an excellent report. The problem is that I do not believe anyone in this chamber received the report. It was released to the media, but to no one here.

Can Senator Banks explain to this chamber why that is so?

**Senator Banks:** Honourable senators, the Order of Reference required that the report be tabled on February 28. At the time that date was selected, it was anticipated that the Senate would be sitting that day. Since the Senate was not in session on that day, and in order to meet that obligation, as indicated in the third paragraph of the Order of Reference, the report was tabled with the Clerk.

The second and third paragraphs of the committee's reference read:

That the Committee report to the Senate no later than February 28, 2002, and that the Committee retain all powers necessary to publicize the findings of the committee...

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting, and that the report be deemed to have been tabled in the chamber.

As it turned out, that became the situation. I believe that the report is now on the desks of all honourable senators.

In order for the committee to meet the deadline for reporting, the report had to be tabled last week.

**Senator Stratton:** Honourable senators, it is rather embarrassing to hear about a committee report in the media, especially a significant report such as this, and to have no knowledge of its contents. I suggest that when it became known that the Senate would not sit last week, something could have been done to ensure distribution the prior week.

**Senator Banks:** Honourable senators, the report was not ready to be tabled the week prior. It had not yet been translated.

In the Hansard of the Senate's meetings of the week before last, Senator Kenny made clear that the report would be ready in time to meet the reporting deadline set out in the terms of reference and that it would be tabled with the Clerk of the Senate. The report was not ready until some time very late Wednesday night.

**Hon. Jack Austin:** Honourable senators, I rise on a point of order. Presentation of Reports is not the time for question and debate. When the order is called tomorrow, if the Senate should agree —

**The Hon. the Speaker pro tempore:** Senator Austin, points of order cannot be raised at this time.

**Hon. Marcel Prud'homme:** Honourable senators, I wish to make a suggestion for future practice. The report was tabled

according to our rules and the committee's Order of Reference. I received two copies immediately, but I had to request them. I believe that Senator Banks acted in accordance with the rules, although Senator Stratton is right in asking why it was done this way. I called the Clerk and was advised that the procedure followed was provided for in the Order of Reference.

To avoid such a situation in the future, perhaps immediately upon tabling with the Clerk of the Senate, all senators could be informed that the report is available in order that we can answer questions about it, as I did.

On motion of Senator Banks, report placed on Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

## THE ESTIMATES, 2001-02

### NOTICE OF MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY SUPPLEMENTARY ESTIMATES (B)

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2002, with the exception of Parliament Vote 10b and Privy Council Vote 25b.

### NOTICE OF MOTION TO REFER VOTE 25B OF SUPPLEMENTARY ESTIMATES (B) TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 25b of the Supplementary Estimates (B) for the fiscal year ending March 31, 2002; and

That a message be sent to the House of Commons to acquaint that House accordingly.

## THE ESTIMATES, 2002-03

### MOTION TO AUTHORIZE NATIONAL FINANCE COMMITTEE TO STUDY MAIN ESTIMATES

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2003, with the exception of Parliament Vote 10 and Privy Council Vote 35.

### THE ESTIMATES, 2001-02

NOTICE OF MOTION TO REFER VOTE 10B OF SUPPLEMENTARY ESTIMATES (B) TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10b of the Supplementary Estimates for the fiscal year ending March 31, 2002; and

That a message be sent to the House of Commons to acquaint that House accordingly.

### THE ESTIMATES, 2002-03

NOTICE OF MOTION TO REFER VOTE 35 TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 35 of the Estimates for the fiscal year ending March 31, 2003; and

That a message be sent to the House of Commons to acquaint that House accordingly.

NOTICE OF MOTION TO REFER VOTE 10 TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that tomorrow, Wednesday, March 6, 2002, I will move:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10 of the Estimates for the fiscal year ending March 31, 2003; and

That a message be sent to the House of Commons to acquaint that House accordingly.

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### COURTS ADMINISTRATION SERVICE BILL

#### FIRST READING

**The Hon. the Speaker pro tempore** informed the Senate that a message had been received from the House of Commons with Bill C-30, to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and

the Judges Act, and to make related and consequential amendments to other Acts.

Bill read first time.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Bryden, bill placed on the Orders of the Day for second reading two days hence.

[English]

### NUCLEAR FUEL WASTE BILL

#### FIRST READING

**The Hon. the Speaker pro tempore** informed the Senate that a message had been received from the House of Commons with Bill C-27, respecting the long-term management of nuclear fuel waste.

Bill read the first time.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Gauthier, bill placed on the Orders of the Day for second reading two days hence.

[Translation]

### PAYMENT CLEARING AND SETTLEMENT ACT

#### BILL TO AMEND—FIRST READING

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to present Bill S-40, to amend the Payment Clearing and Settlement Act.

Bill read the first time.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

### LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

#### FIRST READING

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to present Bill S-41, to re-enact legislative instruments enacted in only one official language.

Bill read the first time.

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.



## L'ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

MEETING OF JANUARY 25-27, 2002—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Pierre De Bané:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report by the Canadian branch of the Assemblée parlementaire de la Francophonie and the related financial report. This report concerns the meeting of the political committee, held at Paris, France, from January 25 to 27, 2002.

MEETING OF JANUARY 28-29, 2002—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Pierre De Bané:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report by the Canadian branch of the Assemblée parlementaire de la Francophonie and the related financial report. This report concerns its participation in the executive committee meeting of the APF, held at Paris, France, on February 28 and 29, 2002.

[English]

## OFFICIAL LANGUAGES

SEVENTH REPORT OF JOINT COMMITTEE—NOTICE OF MOTION TO  
SEND MESSAGE TO HOUSE OF COMMONS OBJECTING TO  
UNILATERAL APPENDING OF A DISSENTING OPINION

**Hon. Jean-Robert Gauthier:** I give notice that tomorrow, Wednesday, March 6, 2002, I will move that a message be sent to the House of Commons, objecting to its decision of February 21, 2002, to append unilaterally a dissenting opinion to the seventh report on Official Languages, and thus ignore the legitimate rights of the Senate in a matter relating to a Joint Committee.

## NATIONAL SECURITY AND DEFENCE

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO STUDY NEED FOR NATIONAL SECURITY POLICY

**Hon. Jane Cordy:** Honourable senators, I give notice that, on Wednesday next, I will move:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the need for a national security policy for Canada. In particular, the Committee shall be authorized to examine:

a. the capability of the Department of National Defence to defend and protect the interests, people and territory of Canada and its ability to respond to or prevent a national emergency or attack;

b. the working relationships between the various agencies involved in intelligence gathering, and how they collect, coordinate, analyze and disseminate information and how these functions might be enhanced;

c. the mechanisms to review the performance and activities of the various agencies involved in intelligence gathering; and

d. the security of our borders.

That the Committee report to the Senate no later than June 30, 2003, and that the Committee retain all powers necessary to publicize the findings of the Committee until July 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

[Translation]

## RULES, PROCEDURES AND RIGHTS OF PARLIAMENT

ORDER OF REFERENCE TO ESTABLISH COMMITTEE ON  
OFFICIAL LANGUAGES—NOTICE OF MOTION  
INSTRUCTING COMMITTEE TO REPORT

**Hon. Jean-Robert Gauthier:** Honourable senators, I give notice that on Wednesday, March 6, 2002, I will move:

That the Standing Committee on the Rules, Procedures and Rights of Parliament, which is currently examining the order of reference from the Senate relating to the creation of a standing Senate committee on official languages adopted on February 20, 2001, report to the Chamber on the said order of reference by May 15, 2002.

[English]

## RESPONSE OF NEWFOUNDLAND COMMUNITIES FOLLOWING EVENTS OF SEPTEMBER 11, 2001

NOTICE OF INQUIRY

**Hon. Joan Cook:** Honourable senators, pursuant to rule 57(2), I give notice that on Thursday next, March 7, 2002, I will call the attention of the Senate to the response of Newfoundland communities following the tragedy of September 11, 2001.

## QUESTION PERIOD

### FISHERIES AND OCEANS

CANSO, NOVA SCOTIA—TRANSFER OF REDFISH QUOTA—  
EFFECT ON LOCAL PLANT

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. It relates to a crisis in the fishery in the town of Canso, in Nova Scotia. A local fish plant there needs more quota. Last month, Seafreez, the town's major employer, closed the processing plant and boarded up the windows, and management told the union representing more than 300 workers that, without quota changes, there would be only limited work for a few people.



On February 5, *The Chronicle-Herald* reported that the federal Minister of Fisheries, Mr. Thibault, had made the fisheries portfolio and stock conservation his top priority, but that he refuses to transfer redfish quota in order to keep that plant open. He is also quoted as saying that he does not feel there should be any kind of a band-aid solution to the problem. It is a desperate situation for the community.

Could the Leader of the Government in the Senate please indicate when the government will make public the national strategy on which it is working that will be timely enough to save the town of Canso from economic collapse?

•(1440)

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question, and he has given part of the answer himself. He knows of the development of the strategy. I cannot give him a date when the strategy will be ready. When the government is prepared to make an announcement, it will do so.

**Senator Oliver:** Can the minister state whether or not the government is prepared to consider a transfer of the redfish quota for the plant in order to keep the plant open and people employed while the government considers the long-term policy?

**Senator Carstairs:** It is my understanding that the transfer of quota is not under consideration at this particular time. Transfer of quota is not simple, because you take from one to give to another. The economic viability of all fish plants must be the major consideration.

## HEALTH

### BUDGET FOR ABORIGINAL CARE—POSSIBILITY OF PRESENTATION ON ISSUE TO HEALTH CARE COMMISSION

**Hon. David Tkachuk:** Honourable senators, today, in the Aboriginal Peoples committee meeting, we heard from officials of the Department of Health about Aboriginal health care. We were told that the budget for the health care of the 700,000 First Nations people in Canada is \$1.3 billion in direct health benefits.

I asked the witnesses if the federal government or the Department of Indian Affairs would be involved in the Health Care Commission led by Mr. Roy Romanow, and whether the government had any intention of making a presentation, since this budget is clearly larger than the budgets of many of the provinces.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is interesting that the honourable senator has raised that particular question. I recently learned that the Department of Health services delivered to our Aboriginal people constitute the fourth largest expenditure on health in the nation. He is correct when he says that it is larger than the health budgets of most provinces in this nation. As to participation in the Health Care Commission, there will not be a formal

presentation. However, since the mandate of Mr. Romanow was set out by the Prime Minister and the Minister of Health, discussions will be taking place between the Minister of Health and Mr. Romanow.

**Senator Tkachuk:** Honourable senators, I am hoping that the Leader of the Government would ask, perhaps in her position as a member of the Privy Council in cabinet, that such a presentation be made.

There was an interesting comment by the officials of the department with regard to health. For the benefit of the honourable senators, the \$1.3 billion is not only for insurable health care. It also includes non-insurable health care, which would be prescription drugs, dental benefits, medical equipment, transportation, vision care, payments of all provincial health care premiums, and short term crisis and mental health counselling. Those benefits are included also. We were told that it is a matter of government policy to pay non-insurable health benefits on the basis of need. I asked the official, if it is on the basis of need, anybody denied? He said, no. In other words, no economic analysis is done regarding who should be eligible for the extra benefits. Everyone gets them.

Can the leader find out what the policy is? Is it a universal health care policy for all non-insurable health benefits, and if so, as the bureaucrats stated, one based on need, how is that need assessed?

**Senator Carstairs:** Honourable senators, it is an interesting question that the senator poses. Who makes the determination as to what is a non-insurable health service? That is made by individual provinces, and I am sure that the honourable senator is well aware of the fact that what is insurable in one province is not insurable in another province.

What also must be considered here is our treaty obligation with regard to Aboriginal people, and one of those treaty obligations is specifically in the field of health. The benefits paid by the federal government to our Aboriginal peoples are not simply based on policy, but also on our fiduciary relationship with our Aboriginal people.

Finally, I must say, I was shocked when I learned that 75 per cent of all of the health care costs in the territory of Nunavut went to transportation, in order to get those Inuit people to places where they could avail themselves of services. That is one of the reasons why the costs are so high.

It is also distressing to all of us that the health care costs for Aboriginals, as evidenced by the infant mortality rate and the age at which they die, still does not equal those of the rest of Canada.

**Senator Tkachuk:** Honourable senators, I am more confused. We have insurable health benefits and we have non-insurable health benefits, which the minister says are based on treaty obligations. However, the officials said that non-insurable health benefits are based on government policy. The confusion as to what is the principle of government policy is at the root of this matter.

[ Senator Oliver ]

I think it is important that the federal government be involved in the Romanow discussion because we have here a perfect socialist, communist health care system. It pays for everything. The committee was told that this perfect health care system is not working well. There are tremendous problems. We have much to learn about what is being done here and what the federal government is thinking about. If the officials and the minister here are not on the same page as far as government policy is concerned, I would like to know why.

What is the government policy? The minister is saying one thing and the officials are saying another. If the minister is right they should know that. I hate to use the reverse, but the minister knows what I am getting at.

I strongly urge that the department make a presentation to the commission. They have as big an interest in managing health care costs as anybody else in the country. This concerns all of the taxpayers and it should be public.

**Hon. Nicholas W. Taylor:** A very clear question.

**Senator Carstairs:** I thank the honourable senator for his question. What is not clear is his use of the term "non-insurable." That is what I was trying to provide some clarity on in my previous answer.

The services provided to our Aboriginal people are insurable and paid for by the federal government. They may be non-insurable in other provincial jurisdictions but that does not make them non-insurable in Aboriginal health care delivery.

As to why the health minister would not make this presentation, as the honourable senator can well imagine, it is a unique situation. The Minister of Health, through her predecessor, has appointed Mr. Romanow. It would be strange for her then to appear before him.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table, in this House, a delayed answer to a question raised in the Senate on February 5, 2002, by the Honourable Senator Gauthier, regarding the costs to comply with the Official Languages Act in implementing the Contraventions Act.

## JUSTICE

### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—COSTS TO GOVERNMENT

(Response to question raised by Hon. Jean-Robert Gauthier on February 5, 2002)

The costs to comply with the Official Languages Act are unknown since there several elements linked to the inner workings of a provincial system. In Ontario, for example, provincial regulations made pursuant to the Provincial Offences Act provide for bilingual tickets, including parking tickets issued at the Pearson Airport, that allow a defendant

to indicate on the ticket their choice for the language of the trial.

If in a region of the province the process is different, service shall respect part IV of the Official Languages Act. The Government of Canada is working in cooperation with the province of Ontario to identify solutions and potential costs.

The Contraventions Act is an act designed to simplify and facilitate the prosecution of federal offences found in federal laws and regulation. The purpose of the agreements signed pursuant to the Contraventions Act is the implementation of the Act and not the enforcement of federal laws and regulations.

It is not the intent of the federal government to compromise the language rights of contravenors. Should Ontario refuse to sign an agreement respecting the Federal Court's decision, the Contraventions Act in Ontario would be suspended which would result in a return to the summary conviction process of the Criminal Code.

With respect to federal parking contraventions in Ontario, we are confident that we can sign agreements with Ottawa and Mississauga that comply with the court's decision.

While the Federal Court decision applies only to the agreement with Ontario, all other agreements will be reviewed in light of the decision. The Government of Canada is working with the province of Ontario towards the conclusion of an agreement that meet the requirements of the judgement.

## ORDERS OF THE DAY

### CRIMINAL LAW AMENDMENT BILL, 2001

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the second reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended.

**Hon. Serge Joyal:** Honourable senators, Bill C-15A, which we are debating at third reading today, is a bill that contains, at Part XXI.1, clause 696.1(1), on page 37, an element that is extremely important for the credibility of Canada's justice system. This chapter of the bill deals with what is commonly referred to as "miscarriages of justice."

[English]

This part of the bill deals with what we usually call "miscarriage of justice." We are all familiar with the names of people who have been wrongly convicted. May I remind you of some of them: David Milgaard, Guy Paul Morin, Thomas Sophonow and, last week in Newfoundland, Greg Parsons.



I have in mind the difficult situation in which a wrongly convicted citizen finds himself, or herself, in order to re-establish his innocence once a court has found him guilty and has sentenced him to prison.

The principle that is paramount in our system is not only that justice be done but that justice appear to be done. In fact, the Supreme Court of Canada in many of its judgments has insisted on the importance that justice appear to be done. What is the reaction of an average citizen when he or she learns through the media that one of his fellow citizens has been wrongly convicted?

Let me quote the *Ottawa Citizen* of last Saturday as it relates to the consequence of such wrongful conviction:

I can't imagine anything worse, than somebody who's innocent to spend time in prison. It's the ultimate injustice.

That quotation is from the famous lawyer Lawrence Greenspon commenting on the murder of D'Arcy McGee.

The issue of the murder of D'Arcy McGee is still open in the minds of many historians, that the person who was found guilty might not have been the author of the crime. I advise honourable senators to go back to that excellent article.

Over the weekend, newspapers were reporting another wrongful conviction of a gentleman in Newfoundland, Greg Parsons. Wrongful convictions seem to be recurring, and those issues address fundamentally the confidence Canadians have in their justice system.

More often than not, we find out that the people involved are Aboriginal people. Why is that so? They fit a pattern. I quote from the same article:

In too many cases, people who are different or fit a stereotype become the victims of a wrongful conviction, Mr. Greenspon says. They become "the perfect target," he says. "Guy Paul Morin was too old to live with his parents. Alfred Dreyfus was a Jew. Whelan was suspected of being a Fenian sympathizer. Donald Marshall was an aboriginal. David Milgaard was a drifter. In every case, the suspect fits a profile, or they were believed to be in the area.

Why is that, honourable senators? It is because when there is a despicable murder without explanation, public opinion is aroused and the public tries to find a guilty person. More often than not, attention is concentrated on groups of people who are more vulnerable socially.

In the Western world, our justice system has a reputation for being fair because it is based on sound principles. Those principles are impartiality, competence, objectivity and independence. It is essential that those principles be maintained all through the process of re-evaluation where a wrongful conviction is alleged after a conviction and sentence.

[ Senator Joyal ]

What this bill achieves is, to me, an important step forward. It amends section 690 of the Criminal Code to give the Minister of Justice authority to reopen a case. Part XXI of Bill C-15A establishes a process that we do not have in our legal system in Canada, a process that has been requested by at least two investigations in previous cases of wrongful conviction, namely the Thomas Sophonow and David Milgaard cases. Retired Justice Peter deC. Cory, in his recommendations to the Canadian public and to the government, said that we need a system that will maintain the principle of independence in the re-evaluation of a wrongful conviction. I quote Mr. Justice Cory from his report:

...in the future, there should be a completely independent entity established which can effectively, efficiently and quickly review cases in which wrongful conviction is alleged...I hope that steps are taken to consider the establishment of a similar institution in Canada.

Honourable senators, Bill C-15A provides a new mechanism. It provides for the Minister of Justice to appoint a commissioner. According to proposed section 696.2, this commissioner is appointed by the Minister of Justice, who "may delegate in writing to any individual the powers of the Minister to take evidence, issue subpoenas, enforce the attendance of witnesses, compel them to give evidence and otherwise conduct an investigation under subsection (2)." In other words, the minister will now be called to appoint an individual to do the investigation in a legal framework — that is, to subpoena witnesses, to compel evidence and to take the ordinary steps that are taken in a court of justice when one wants to come to a fair and balanced conclusion.

The problem that was raised in our committee's work, on both sides of the committee — and Senator Pearson, who was sponsoring the bill, raised it as well — is that nothing in this proposed section provides for the qualifications of that person. Again, the section reads that the minister may appoint any individual.

[Translation]

And in French:

[...] le ministre de la Justice peut déléguer par écrit à quiconque [...]

[English]

There is no experience, independence, objectivity and impartiality, the essential characteristics of a legal process.

Many committee members, when we were hearing witnesses at the committee stage, thought that there would be an opportunity to give an indication of the kind of person that the Minister of Justice should be appointing in writing. In referring to past appointments, there appeared a precedent, where the minister had appointed retired justices. Perhaps retired justices should be a category of people among whom the minister can choose.



• (1500)

It was properly pointed out during the committee discussion that retired justices are not the only persons who maintain the experience, objectivity and knowledge of the legal system needed in such a specific and extraordinary circumstance as an investigation into a wrongful conviction. It was suggested that members in good standing of the bar of any province might be a reservoir of people from which the minister could identify the proper person to fill the role of commissioner.

In the context of wrongful conviction cases, it has been proposed that there could be other groups of people with knowledge of the legal system generally who, although not lawyers or retired justices, might be able to fulfil such a responsibility. That is why it made sense that such a person with a similar background or comparable experience could be someone who should be considered by the Minister of Justice.

In other words, the consensus was to try to maintain the principles of independence, objectivity and impartiality that such a person, in the role of commissioner, might provide not only to the people who are directly concerned with the wrongdoing but also to the Canadian public generally. The fundamental principle is that it is just as important that justice not only be done but also appear to be done. Justice appeared to be done when the commissioner who is charged with the responsibility to reinvestigate a case offers the proper credibility that justices normally offer when they sit on the bench with the protection that they enjoy under our Constitution.

The Supreme Court of Canada has established that principle of independence in many instances. I want to quote from one case in 1985, where the Supreme Court said the following about the principle of independence:

[Translation]

The word "independent" reflects or embodies the traditional constitutional value of judicial independence. As such, it connotes not merely a state of mind or attitude in the actual exercise of judicial functions, but a status or relationship to others, particularly to the executive branch of government, that rests on objective conditions or guarantees.

[English]

What does it mean? It means that when a person has the capacity to make a recommendation, in fact that will lead the minister to the decision of whether or not to reopen a case. This whole process of re-evaluating the proof, having to hear witnesses, compelling witnesses to answer, compelling the production of documents that might not have been under consideration at the trial level — reopening the case generally, with its implications in relation to the proof — is a very important legal initiative. It is important that the person who presides over that initiative offers to the Canadian public that element of independence from the executive that the court mentioned in its 1985 judgment.

Honourable senators, that is the context. In the past few months, we in this chamber have had to address another important situation when the trust and confidence of the Canadian public in another essential element of the rule of law was discussed in this chamber. You will remember that this was on the occasion of debate on the anti-gang legislation. We wanted to ensure that, in the course of an investigation, when the police forces are authorized to commit an act that would otherwise be deemed a criminal offence, there be control over the police activities in such circumstances in line with the specific principle that not only must justice be done but that it appear to be done.

There no more difficult situation for any Canadian than listening to a report in the media that someone who has been wrongly convicted, having spent 12 or 17 years in prisons, has finally been released but that his or her life has been broken. Could you imagine yourself spending that many years in prison and trying to fight to establish your innocence? Where would you put your trust? Where would you put your hope, if not in a process that seems to be fair, and that operates on fair ground?

That is why I want to commend the minister and the members of the committee who have studied that question for their work, because this is a very important step towards maintaining the sound principles of our legal system. When the Minister of Justice of Canada, who is responsible for the integrity and functioning of the legal system of Canada, has to establish and choose a commissioner to reinvestigate a trial, it is recommended that that person offer the same qualities that we expect in any jurisdiction in Canada.

It is with those elements in mind, honourable senators, that I move that Bill C-15A be amended in clause 71 on page 37, by replacing line 28 with the following:

writing to any member in good standing of the bar of a province, retired judge or any other individual who, in the opinion of the Minister, has similar background or experience the powers of the

I would like to propose that amendment with the support of Senator Moore.

**The Hon. the Speaker *pro tempore*:** It is moved by the Honourable Senator Joyal, seconded by the Honourable Senator Moore, that Bill C-15A be amended in clause 71 on page 37 by replacing line 28 with the following:

writing to any member in good standing of the bar of a province, retired judge or any other individual who, in the opinion of the Minister, has similar background or experience, the powers of the

**Hon. Anne C. Cools:** Is the question before us now? I want to speak to the amendment and I also want to ask Senator Joyal a question.

**The Hon. the Speaker *pro tempore*:** The amendment is before us, Senator Cools.

**Senator Cools:** I wish to speak to the amendment. I would like to move the adjournment of the debate.

**The Hon. the Speaker *pro tempore*:** Have you moved the adjournment?

**Senator Cools:** My understanding of the rules is that I can put a question to Senator Joyal, and after that I can announce my intention to speak on the amendment, and then take the adjournment. That is my understanding of the rule.

**The Hon. the Speaker *pro tempore*:** Senator Joyal, will you take questions from Senator Cools?

**Senator Joyal:** Yes, Your Honour.

**Hon. Gérard-A. Beaudoin:** On a point of order, do I understand that no other senator may ask a question of Senator Joyal?

**The Hon. the Speaker *pro tempore*:** No —

**Senator Beaudoin:** I would like to ask a question.

**Senator Cools:** Any senator can ask a question. That is the point that I was making, that we have the right to put questions to Senator Joyal. I thought that Her Honour was about to put the question.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Cools, you want to ask a question to Senator Joyal. You have the right.

**Senator Cools:** When I am finished with my questions, and other senators have asked their questions, I want to take the adjournment.

• (15:00)

Perhaps the honourable senator would clarify. The powers in Bill C-15A that are being given are not judicial powers to make a finding but rather inquisitorial powers to make an investigation. It is not, therefore, totally accurate to talk about justice being done in the absolute sense of judges adjudicating a case, with or without a jury, and making a decision about guilt or innocence. I wonder if the honourable senator could clarify before this chamber that the powers for commissioner so being appointed are inquisitorial and not judicial.

**Senator Joyal:** Honourable Senator Cools has raised an important point. The commissioner is appointed under the Inquiries Act of Canada. The person has the same powers and privileges as any person appointed to lead an investigation under the Inquiries Act.

It is important to remind honourable senators that the court has ruled in the past on the professional behaviour of such a person appointed under the Inquiries Act. In other words, what are the obligations put on the shoulders of a person who is appointed a commissioner under the Inquiries Act?

The Supreme Court of Canada ruled on a case last year, 2001 and I refer to the case between Judge Richard Therrien and the Minister of Justice of Quebec. Honourable senators will remember that in that case Judge Therrien was under investigation by the Judicial Council.

[Translation]

Judge Therrien was placed under investigation because his prior professional conduct was deemed incompatible with the judicial role. The appeals court upheld the ruling of the Conseil de la magistrature, which concluded that Judge Therrien was not capable of carrying out the responsibilities that are a part of the judicial role. I would like to quote from the ruling. The court, in its ruling, stated clearly that, since the *Nicholson v Haldimand-Norfolk Regional Board of Commissioners of Police*:

...the respect of the rules of natural justice, which was the purview of courts of law, has been extended to all administrative bodies that act under the authority of the law by the rules of procedural fairness. If there is the chance that an administrative decision could violate a person's rights, privileges or property, the procedure in which it is carried out must respect the obligation to act fairly.

[English]

In other words, when a person finds himself in the role of a commissioner, he is dealing with the rights and freedoms of a citizen, and, as such, he is submitted to the same obligations as anyone who exercises the adjudicating function.

**Senator Cools:** Honourable senators, Senator Joyal did not quite hit the substance or the essence of my question.

My question was whether or not the "individual" within this bill — not a case like Judge Therrien before the Supreme Court — as appointed by this minister under Her Majesty's powers to do the tasks assigned in this bill will have a judicial powers position or an inquisitorial one. My understanding of those powers is that they are inquisitorial and not judicial.

That is my question. The honourable senator can answer it now, or he can pass on it and I can go on to another question.

The honourable senator spoke about independence. There are many kinds of independence. I suspect that anyone who is being considered for any significant task within the public service is expected to have a degree of independence. However, when you talk about judicial independence, you are moving into an entirely different area of principles. The words sound the same, but they are remarkably different. The principle of judicial independence applies to judges in their adjudicative function of declaring innocence or guilt and making findings after due process. One cannot say that, in this instance, this commissioner must exercise judicial independence; however, it is quite accurate to say that they should exercise objectivity, impartiality, ethics, independence and so on. Those qualities, noble as they are, are not judicial independence.



I submit to Senator Joyal that there are large numbers of people who have those characteristics of impartiality, independence, objectivity and so on and who cannot be found within the class of persons that Senator Joyal's amendment addresses. To the extent that the amendment limits the minister's discretion and limits Her Majesty's prerogative to make the appointments, I wonder if the Honourable Senator Joyal would tell us why he thinks such an amendment is even necessary. It seems to me that Bill C-15A as currently written gives the minister all the powers to appoint the right person — the most qualified person, the most judicious person, the best person that the minister can possibly consider. It seems to me that the bill as currently written is adequate and that this particular amendment constitutes a fair amount of caprice.

**Senator Joyal:** I would remind honourable senators that we are dealing with the case of someone who has been convicted and sentenced. That person is seeking redress. There is a process to obtain proper and fair redress. That process is similar to any process whereby the rights and freedoms of citizens are being decided upon. Our system of justice is equitable. It is based on respect of the rights of the individual, respect of due process, and respect of a system that guarantees the petitioner every opportunity to be heard and to make his or her case. I am of the conviction, according to the report of the retired justices who dealt with previous cases of miscarriage of justice, that this amendment corresponds to the qualities that a person who has the immense responsibility of reviewing a miscarriage of justice should offer to maintain trust and confidence in our system.

[Translation]

**Senator Beaudoin:** Honourable senators, there is no doubt whatsoever that in Canada, judiciary independence is solidly entrenched in the Constitution. There have been several Supreme Court judgments on this.

Am I to understand that the reason for your amendment is that you want to leave the door open to the constitutional question? In other words, if someone claims there is a judiciary error, it is not sufficient, as stated in *R. v. Sussex Justices*:

[English]

It is not good enough that justice be done, but that justice be seen to be done, in which case we are at the same level of independence as the judiciary. If a case is reopened in our country, in view of the liberal interpretation given to our Charter of Rights and Freedoms, I am quite sure that justice must be seen to be done.

• (1520)

Is that what the honourable senator had in mind when he said that this amendment is due? The word in French is "quiconque" and in English it is "individual." Should I understand that, in the honourable senator's opinion, that is not good enough, that it is not precise enough to respond to the principle of justice in Canada?

[Translation]

**Senator Joyal:** Honourable senators, Senator Beaudoin prompts me to make reference to the report on the investigation led by former Supreme Court Justice Peter Cory into the Soponow case, as well as the report on the Milgaard affair. The two former judges who examined these cases recommended that the government, the Minister of Justice to be specific, review the process for deciding on an application for the reopening of a case.

Section 690 of the Criminal Code, which honourable senators may have in mind, is extremely vague. This section merely states that the Minister of Justice may decide whether or not to reopen a case. There is no process set out in the present Criminal Code. Given the increasing number of judiciary errors, those who investigated the case at great length, Justice Cory in particular, reached the conclusion that there ought to be a process independent from the minister himself, since the minister is responsible for protecting the integrity of the justice system and also, in many cases, is the Attorney General. Fulfilling these two functions, he is in a number of cases the petitioner against an individual.

Based on this same principle, that we cannot confuse the position of judge and that of accuser, the process that must lead to the review of a wrongful conviction must be removed somewhat from the minister. This is what Bill C-15A proposes. It does not propose a system comparable to that in Great Britain.

In Great Britain, there is a commission made up of 11 persons, independent from the minister of justice, that reviews the requests. The proposal studied by the committee does not go that far.

The bill proposes appointing a commissioner under the Inquiries Act. The decision to accept or not the recommendation of the commissioner of inquiry remains with the minister. The purpose of my amendment is to appoint a commissioner of inquiry to ensure a certain level of objectivity, one with the professional skills and independence necessary to maintain the system's credibility when it is required to review itself; it reviews itself by protecting the characteristics that are essential to the system.

This is the objective approach that was proposed by the Minister of Justice and that we generally accepted in committee.

However, as the Honourable Senator Beaudoin mentioned, it is imperative that when we establish such a system, that it be subject to due process and to the test of the rule of law, because some day it may be challenged before the courts now that it is defined.

Honourable senators are no doubt aware of cases before the courts that have called into question the relevance of rulings. In such cases, independence was not sufficiently respected in the decision. Impartiality and public confidence in the system was not adequately protected in the decisions that were rendered. Later, the decisions made in these cases were overturned by the highest court in the land.

**Senator Beaudoin:** That answers my question very well.

[English]

**Hon. John G. Bryden:** Honourable senators, a question arises in relation to the fact that what occurs under the present bill without the amendment is that the minister will appoint an individual who conducts an investigation under the Inquiries Act and is a commissioner under the Inquiries Act. Senator Joyal's amendment clarifies the type or category of the individual who would be appointed. With all due respect, I wonder if what the honourable senator is attempting to do accomplishes that or whether it is overly restrictive?

Senator Joyal has stated that the person is entitled to due process, and that this is someone who has been sentenced and has been in jail for 12 years or for 17 years. As I read the amendment, the people who are most apt to be appointed as the investigators come from the same group of people who put the individual there in the first place; that is, the people who convicted him the first time around were lawyers and judges, officers of the court. If that is the case, the amendment is too restrictive. There are people, other than individuals such as you or I who have some training in the law, who may be good commissioners.

As I read this amendment, I am trying to think who, other than a lawyer or former lawyer, would meet this requirement in almost any situation. The amendment says, "any member in good standing of the bar a province, retired judge," who would once have been and probably still is a member in good standing of the bar. It goes on to say, "or any other individual who, in the opinion of the Minister, has similar background." Does that mean law school training? Would that be the correct interpretation, or would it refer to experience, meaning legal practice experience or judicial experience? If that is the proper interpretation, I believe it is far too restrictive. There may well be instances where a retired parliamentarian could be a commissioner in a situation such as this. There could be a situation where a former ombudsman, who never went to law school, would be qualified to be a commissioner. Perhaps that could be said to be judicial experience.

My point is that this amendment may be too restrictive. Might a change be made to indicate similar background or comparable experience? The reason for making that suggestion is because if I were interpreting this amendment, I would assume that the first qualification would be to have a law degree and be a member of the bar in good standing, or to be a member of the judiciary who is retired or supernumerary, or any individual who has a similar background.

I do not know if anyone ever applies a version of the "adjust and generous" rule. However, any judge or any person looking at this amendment would say, "Okay, if I am looking for a person to match this qualification, I will start with what has been specified." Those who have been specified are lawyers, ex-judges and then similar individuals. Perhaps Senator Joyal has a list of examples of people who would fit the similar background or experience category. If he does, it would be helpful if he would give such an indication. Perhaps something can be done that would encompass that group of citizens.

I return to my point, honourable senators. One of the reasons this person is looking for a second kick at some justice is that the system, of which Senator Joyal and I are a part as officers of the court, is the one that did the person in, in the first place.

•(1530)

**Senator Joyal:** Honourable senators, we have again put ourselves in the position of someone who is convinced that he or she has been wrongly convicted. Such a person feels that they will be fairly treated in an investigation of their case.

As the honourable senator has said, there are parliamentarians who have had lengthy experience in hearing and questioning witnesses and who have the daily responsibility of reviewing legislation. That is our first job, which is why we are here this afternoon. We are familiar with the legal system.

I will make a comparable analogy: If you feel sick, you go to see someone who is experienced, in one way or another, with the provision of medical services, or you consult a pharmacist or someone who has a great deal of experience in the proper domain. If you are wrongly convicted and are fighting to have your innocence recognized, there is no doubt that you will expect to have your case reviewed by someone who has some experience in listening to the pros and cons, in studying documents, in reading the proofs and the transcript of the trial and being sensible to the interpretation of the legislation. In other words, this person will generally have the capacity to understand the entire legal process. This person will make a recommendation to the minister, and the minister will act upon the recommendation.

There is more involved than just being able to read; there is also the capacity to appreciate. When we read the overall category proposed, "member of the bar" means someone who, in one way or another, has had some experience with the legal system, either in the practice of law or in teaching or giving legal advice. If the person is a retired justice, then that is a person who has some detachment from the system because the person is no longer on the bench. There is no longer the obligation of collegiality that an acting justice would have with a group of justices. The person is retired. There is an element of distance from the system, something which is fairly important, as the honourable senator has said, for someone who wishes to have their case reviewed. He does not wish to find himself before the same group of people by whom he was condemned. He wishes to have someone with a certain degree of objectivity.

The amendment proposes that the minister appoint people with similar background or experience. In my opinion, it is obvious that this means anyone who has been responsible in the past for pondering pros and cons and weighing different arguments. The honourable senator has suggested an ombudsman. What would this ombudsman do? He also suggested a retired commissioner of a provincial human rights commission, someone who may not be a lawyer but who has the ability to view and balance the pros and cons. That person understands when the rights of people are at stake and how the system must operate to protect those rights. Essentially, the amendment says "in the opinion of the minister" this person appreciates who has a similar background or experience. In other words, it does not need to be a formal lawyer, as a justice normally is. It could be someone who has practised in an administrative body because the person might not be...



[Translation]

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry, but Senator Joyal's allotted time has expired.

On motion of Senator Cools, debate adjourned.

[English]

## NATIONAL ANTHEM ACT

### BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-39, to amend the National Anthem Act to include all Canadians.—(*Honourable Senator Banks*).

**Hon. Tommy Banks:** Honourable senators, I rise today to speak in support of Senator Poy's bill, which surprises me more than anyone. When I first heard about the proposal to change the words of the National Anthem of Canada, I was vehemently opposed. I suppose that may stem from the fact that, even then, I was a traditionalist. In fact, some people think of me as a curmudgeon.

The first time I heard this exact same proposal to change the phrase from "in all thy sons command" to "in all of us command" was in 1993. It was made by a man to whom Senator Poy referred in her speech on this bill. His name is Stuart Lindop, and I have known him for some time through his son. As Senator Poy told us, he is a war hero, wounded and decorated, who, in 1993, recognized the fact that while he was one of those "sons" in whom we commanded loyalty, and who had done that in Holland in 1943 or 1944, there were many daughters there at the same time doing things which he thought deserved attention. He brought this thought to fruition in a proposal in 1993 which was reflected in a private member's bill sponsored by the Honourable David Kilgour. However, I believe it disappeared in the lottery system of the other place.

Honourable senators, we have today for consideration a bill which I still opposed when it first came before us because I am a traditionalist. I do not like change. I was ready to accept the idea that from that long ago it was a generic thing, and it was meant to include everyone. Then I started to look at some of the history of this anthem. I am a songwriter, and spent part of my misspent youth doing just that.

I have always found that the first notion is usually the best one. I almost always go back to it. The fact is that the English words of *O Canada* have been changed dozens and dozens of times since we first heard the song. Our francophone colleagues have the great advantage in that the French language lyric to our

national anthem, as I understand it to be, is fundamentally, and for all intents and purposes, the same as it was in 1880. It has not substantially changed. In respect of the English language lyrics for what was for a long time a national song, there have been approximately 23 versions that I have been able to find thus far.

• (1540)

Honourable senators have heard an argument that the question of the lyrics of a national anthem are not properly the business of Parliament. I do not think that is possible because, in the first place, the fact that it is our national anthem is the result of an act of Parliament passed in 1967. As well, I believe it was in 1981 that Parliament amended the English lyrics of *O Canada* with the addition of a nice line that said, "God keep our land," which I am sure honourable senators will recall. We also thought there were too many repetitions of "we stand on guard for thee" and so we substituted for one or two of them.

In 1981 we had what we thought to be propriety and changed the lyrics of *O Canada* as they then existed. They became an anthem to English Canadians, only in 1967 by virtue of an act of Parliament. It had been, for all intents and purposes, an anthem. One could reasonably say it was a national anthem in French Canada since its introduction. The English lyrics, however, have changed. There have been at least 23 different versions of the anthem in that time.

I still held to the idea initially that we should not change the anthem because it has been that way since its use became common, even as a national song, not just as a national anthem. Then, I found that that was not true. Senator Poy mentioned this last week, and it is the case. This is a version that was printed in 1908, as far as can be determined, and there are copies of these in various libraries. This 1908 version contains the word "us" on exactly the same syllable and on exactly the same note that the word "sons" appears in the version to which we have all become accustomed.

As far as I can see, that version was first introduced in about 1913 or 1914. Honourable senators, I suppose that might have been because of the Boer War, and so on, and we were talking about sending young men off to battle, for the most part. Even then, it was not true that we only sent young men off to battles.

Being the traditionalist that I am, and believing as I do that the first taste is always the best, I support this bill because, in 1908, this national song said the word "us" on the exact same beat of the exact same measure on the exact same note on which we have only recently taken to singing "sons." I commend honourable senators' attention to those facts and to the fact that the only lyrics that could be said to be truly traditional in the sense of the timing of the beginning of this song are the French lyrics. That is not true of the English lyrics. They are more appropriate and more traditional if we make the change that is proposed in the amendment of Senator Poy.

If other honourable senators do not wish to speak to this issue now, I would move adjournment of the debate in the name of Senator Johnson.

**Hon. Laurier L. LaPierre:** Will the honourable senator accept a question?

**Senator Banks:** Yes.

**Senator LaPierre:** I would ask the honourable senator whether he thinks that, because the original version is the only real version and the traditional and sacred version, everyone in this country should sing only the French version?

**Senator Banks:** I thank the Honourable Senator LaPierre for his question. However, if he heard my Churchillian French accent, he would change his mind in respect of the question.

**Hon. Anne C. Cools:** Would the Honourable Senator Banks accept another question?

**Senator Banks:** Yes.

**Senator Cools:** Senator Banks has told honourable senators that the words of 1908, which, by the way, were not the national anthem at the time, are the true words and that the other words "in thy sons command" were written in or around 1913. Would the honourable senator tell us who wrote those words and why?

**Senator Banks:** I thank the Honourable Senator Cools for the question. By "those words" I presume you mean the words to which I referred as being written in 1908.

**Senator Cools:** That is correct.

**Senator Banks:** I did not say, Senator Cools, that they were the correct words or that they were the right words. I said that all of the English lyrics about which we speak are, each on their own, one of about 23 different versions.

His Honour Mr. Justice Weir of Montreal, who, I believe, may also have been the author of the 1913 version, wrote the lyrics of the version to which I refer. At the least he was the copyright holder, although I do not know if he was the author of the lyrics of that version.

**Senator Cools:** Would the honourable senator clarify the fact that it was Mr. Justice Weir who wrote the words "in thy sons command"? The honourable senator continues to compare the 1913 version to the 1908 version. However, the family and friends of Mr. Justice Weir are absolutely certain — and the records show — that Mr. Justice Weir wrote those words "in thy sons command."

Furthermore, it is that particular version with the words, "in thy sons command" that became increasingly popular. That later popularity was able to cause Parliament to adopt it as the national anthem.

I would ask the honourable senator, since if the words "in thy sons command" were the actual words that commanded popular

appeal and support, are they not worthy of our support even now? They continue to command popular support now.

**Senator Banks:** Senator Cools, at the moment I sing them as loudly as anyone sings them when the occasion arises.

I have, unlike the honourable senator, no certainty as to the relative popularity of the words that were extant in 1908, on the one hand, and those for which the copyright was issued in 1913, on the other hand. I have the temerity to suggest that despite the great age of everyone in this chamber, none of us knows the answer to that question.

In respect of my preference of the two lyrics, I will rest my argument on the case that, as a songwriter, I find that I always return to the first words that came to my mind rather than the subsequent ones. The first words always seem to me to be the best. I have no hesitation in ascribing to Mr. Justice Weir that same good taste.

On motion of Senator Banks, for Senator Johnson, debate adjourned.

•(1550)

## STUDY ON ROLE OF GOVERNMENT IN FINANCING DEFERRED MAINTENANCE COSTS IN POST-SECONDARY INSTITUTIONS

REPORT OF NATIONAL FINANCE COMMITTEE—  
DEBATE CONTINUED

On the Order:

Resuming debate on consideration of the ninth report of the Standing Senate Committee on National Finance (study on the role of the government in the financing of deferred maintenance costs in Canada's post-secondary institutions), tabled in the Senate on October 30, 2001.—(*Honourable Senator Callbeck*).

**Hon. Catherine S. Callbeck:** Honourable senators, I am pleased today to speak to the Standing Senate Committee on National Finance report on accumulated deferred maintenance in Canadian universities. Along with other honourable senators, during Senator Moore's inquiry I have already spoken about the problem of rising maintenance costs. At this time, I should like to make a few comments now that the National Finance Committee has tabled its report on the matter.

Deferred maintenance at our universities is a very serious problem. As the National Finance Committee's report identifies, a number of factors explain the high degree of deferred maintenance in our universities. These include aging physical plants, decreased funding, demands for new space, as well as lack of profile as interest is attracted to projects concerning construction of new buildings and not the maintenance of older ones. As a result, Canadian universities have accumulated over \$3 billion in repair and maintenance costs.



The consequences of deferred maintenance costs are severe, as they have an impact on both the health and safety of our university students and staff. For example, in one instance noted in the report, a ceiling tile fell on a student's head in the middle of a lecture.

However, it is important to note that the consequences of deferred maintenance go beyond health and safety. In many cases, the deterioration of universities has compromised teaching and research. For example, the report details one case where a respected biologist left a Canadian university for an American university because the ventilation system in her lab was in such a state that it could not keep the constant temperature that her research required.

Situations such as this do not foster an environment that is conducive to learning and one that attracts potential faculty and students. It is clear that something must be done. The federal government must play a role in assisting post-secondary institutions.

The question now is what can be done? The National Finance Committee outlined several proposals in its report that we should consider. One option put forth by the Canadian Association of University Business Officers and the Association of Universities and Colleges of Canada would see a cost-sharing arrangement among the provincial and federal governments and the universities.

Other proposals advocate such things as using the Canada Infrastructure Program to directly fund the accumulated deferred maintenance costs or developing various trust funds such as the Medical Equipment Trust Fund, which was developed to help hospitals acquire necessary equipment.

Another suggestion is to establish a program that offers a significant tax incentive to those who donate money to the universities. Such a program would protect the capital gains on donations made for the purpose of assisting universities in dealing with the problem of accumulated deferred maintenance.

Our post-secondary institutions will require more help if they are to continue to provide students with the best and safest possible educational environment. While the federal government has taken measures in recent years to increase funds to faculty and students in the form of various granting councils, research chairs and scholarships, it is also necessary that the federal government take into consideration the importance of funds dedicated to maintenance. Having government involvement in providing a solution to this problem is vital, not only in ensuring the safety of university staff and students, but in maintaining the historical buildings on campuses across Canada. As noted in the committee's report, private funding is much more likely to be directed toward endowments and new facilities rather than addressing the concerns associated with accumulated deferred maintenance.

The various options put forth in the report of the National Finance Committee should be studied. I hope that the government will address this problem in the near future, as we must deal with accumulated deferred maintenance in order to meet our commitment to make Canada an innovative and knowledge-based society.

**Hon. Nicholas W. Taylor:** I wish to thank the honourable senator for a mercifully short and to-the-point intervention. I should also like to ask her a question.

**The Hon. the Speaker *pro tempore*:** Will the Honourable Senator Callbeck accept a question?

**Senator Callbeck:** I will gladly accept a question.

**Senator Taylor:** The honourable senator appears to have looked at financing from the government's side and tax side. Has anyone looked at the idea of granting students an education mortgage? Someone can obtain a mortgage to buy a house or a mortgage for many things. People talk about education loans to students, but I am thinking about a long-term mortgage to get a degree, with the principle and interest to be paid from the student's income following graduation. That way, if a Michelangelo graduates and does not make any money for 200 years, he will still be able to get an education. The problem with student loans is that they go to faculties such as engineering and geology, but students of the arts get short shrift. Did anyone look at students being able to mortgage to whatever degree they choose, be it in the finest of the arts or in the most money-grabbing of vocations?

The mortgage would flow through to the university but would still be the private responsibility of the student. It would be based on the income the student earns, not on a set period of payback. Perhaps such a system would allow us to develop a few Michelangelos or Shakespeares or Victor Hugos during the time they would be paying back the mortgage.

**Senator Callbeck:** I wish to thank the honourable senator for the question.

What I am speaking about here is deferred maintenance. The universities together have over \$3 billion in deferred maintenance. They must get the money somewhere.

The honourable senator is speaking about a mortgage for students to pay their tuition. Is he suggesting that we increase tuition? Right now, students are paying their tuition, but that is not enough to cover this deferred maintenance problem. We have to deal with this major problem.

•(1600)

Whether we do it in one of the various ways reported in this committee, there are the several options that I have noted. I am saying it is a matter with which the government must come to grips. It is important, and we must get on with it.

**Senator Taylor:** In response to a question that the honourable senator rightfully shot back at me, it would involve increasing tuition. However, that would be more than compensated for by the so-called "education mortgage" about which I am speaking that would flow through to the university for whatever purpose it wanted to use it, such as fellowships or repairs — repairs, probably. If the person benefiting from the education makes a great deal of money down the road, it would be paid back, as there would be a surcharge on his or her income. If the person does not make any money, no harm is done.

We use that system as well when we give tax dodges to seniors or to people who have made money, to give to the university. We would be doing the same thing, only feeding it from the bottom instead of from the top.

**Senator Callbeck:** That could perhaps be looked at. My view is that we have a massive problem right now with which the government must deal. It must be dealt with up front, whether through a cost-sharing agreement with the federal government, the provinces and the university, as was one suggestion, or through an infrastructure program or a trust fund such as was done with medical equipment.

There needs to be a real shot of money to address this problem. That is needed right now. The figure is over \$3 billion. If honourable senators read the report, they will see how serious the situation is. It is affecting our students and professors. The time is now to address this matter. I would favour one of the proposals outlined in this report.

**Senator Taylor:** My other question related to financing of universities. I understand that a great deal of research goes on in our universities. Somehow or another, universities do not benefit from the research. In other words, they do not get shares of the corporations or companies set up to use the research within the university. It seems to be siphoned off to researchers, who set up a company. Sometimes it is siphoned off to the research council, or to the federal or provincial governments, which have set up units to do this.

Are the universities getting a fair shake out of the research that they are sponsoring? Does anything come back to them through ownership in the invention or idea that is developed?

**Senator Callbeck:** Honourable senators, I am certainly not an expert on research. However, all of us benefit through the research dollars spent. The universities certainly benefit from research dollars. We have had many research dollars go into universities from the federal government in the last two or three years. I really cannot answer the honourable senator's question specifically.

On motion of Senator Morin, for Senator Cordy, debate adjourned.

## INTELLECTUAL PROPERTY RIGHTS OVER PATENTED MEDICINES

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator Finestone, P.C., calling the attention of the Senate to three diseases which are sweeping the developing world and which draw many to ask whether intellectual property rights

[ Senator Taylor ]

over patented medicines haven't taken precedence over the protection of human life.—(*Honourable Senator Morin*).

**Hon. Yves Morin:** Honourable senators, I am pleased to rise today to compliment the Government of Canada on the commitment it has shown to combatting the gravest of international problems.

As the Minister of Finance noted in his speech last December, Canada is one of the best countries in the world in which to live. Canada has a special responsibility toward the less fortunate peoples of the world.

[*Translation*]

This responsibility is not simply similar to that of a parent towards a child. It is not only a manifestation of paternalism. It is indeed an aspect of our own development. Increasing international development assistance enables a greater number of countries to partake in the benefits of globalization while tipping the balance in favour of peace and human security throughout the world, including inside our own borders.

[*English*]

In its most recent budget last December, the government served notice of its intention to establish a \$500 million fund to enable it to work in partnership with the African countries, as well as with other donor countries and the international development institutions, to promote sustainable development in Africa.

The government has also made a commitment that development in Africa will be one of the main themes of the next G8 summit meeting happening in just three months, in June of this year, in Kananaskis, Alberta. Just last month, at the progressive Stockholm summit, world leaders supported Prime Minister Chrétien's suggestion to make Africa the focus of the summit.

[*Translation*]

This political will will be shared by all developed countries who contribute to progress on a continent where, to quote the Prime Minister of Great Britain, Tony Blair, "Famine, disease or conflicts are causing the death of one child every three minutes."

I find it heartening that former U.S. President Bill Clinton has agreed to head a mission to Africa, with the mandate to define the measures the international community and African governments must take to deal with the many problems the African continent is facing.

[*English*]

Honourable senators, until the sickly continent that is Africa today becomes a healthy continent, until all developing countries achieve a basic standard of health, spreading the benefits of globalization will mean relatively little.



[Translation]

It is often said that, when people enjoy financial security and education, they will be healthy. They learn how to avoid behaviour and habits that are bad for their health, and they can afford health care if they become sick. However, solid economic growth is impossible when a large segment of the population is suffering from malnutrition and serious diseases.

[English]

In fact, a recent report by the Commission on Macroeconomics and Health, created for the World Health Organization under the leadership of noted economist Jeffrey Sachs, turns conventional wisdom on its head and substitutes common sense. The report says that sick people cannot be productive workers. It says that when children die young, women will continue to have more children rather than joining the workforce. It says that people who do not enjoy the benefits of health do not have the energy to seek out the benefits of education or employment. In other words, to lift developing countries out of the mire of poverty, we first need to pay attention to the health of their citizens.

Honourable senators, the Government of Canada recognizes that, in Canada, health research is critical for better health for Canadians and a better and stronger health care system. That is why it has invested in the Canadian Institute of Health Research. That is why it increased the CIHR's annual budget in its most recent budget. This is why the government is investing in research infrastructure through the Canada Foundation for Innovation, and in research excellence through the Canada Research Chairs.

• (1610)

What is true for Canada is no less true for developing countries. The road to better health travels directly through a strong global health research enterprise. Unfortunately, that road is not yet well-paved.

In 2000, the Global Forum for Health Research issued a report saying that of the \$73.5 billion that was invested in health research worldwide, only 10 per cent was allocated to 90 per cent of the world's health problems, most of which are concentrated in poor countries. They called it the 10/90 gap.

[Translation]

Take the case of AIDS, for example, a veritable scourge in developing countries. We have all heard talk of the high percentage of Africans with AIDS. Of the 35 million people in the world living with AIDS, 28 million, or 80 per cent, live in Africa; 20 per cent of South Africans, more than 4 million people, have the AIDS virus. And just so people do not think that the problem is restricted to Africa, I would remind this house that, after South Africa, India has the highest rate of people living with AIDS in the world.

[English]

Recently, we made a step forward when pharmaceutical companies reached agreement with African countries to slash

prices on AIDS anti-retroviral drugs by 85 per cent, on average. This is an important step forward. We know that these drugs have significant impacts on the health of those infected with AIDS.

However, we know more than that, thanks to two studies unveiled early in December at the regional AIDS conference in Burkina Faso: We know that the drugs are effective, despite critics who say that African countries are ill-equipped to administer them properly.

Taking health research into developing countries does not mean relaxing our western standards of excellence. This kind of evidence is needed to ensure that the interventions we do make are the most effective possible. That is why, for instance, *The Lancet* recently called for a rigorous systematic process of expert, peer review for proposals to the Global Fund to fight AIDS, tuberculosis and malaria. This public-private partnership, which has been championed by UN Secretary-General Kofi Annan, is bringing together more than 40 countries with UN agencies, the World Bank, private groups and non-governmental organizations. It is taking country-wide approaches to projects that focus on measurable outcomes and that build on national plans already in place in these countries.

Earlier this year, four government organizations in Canada entered into a first-ever collaborative effort. The Canadian Institutes of Health Research joined together with the Canadian International Development Agency, CIDA, the International Development Research Centre and Health Canada to form the Canadian Global Health Research Initiative. This marks the first time in Canadian history that Canada's overseas development agencies, Health Canada and the major federal health research funding agencies have pooled their knowledge, experience and resources to address the 10/90 gap that I spoke of earlier.

[Translation]

Thanks to this initiative, partners will implement new world health research programs and strategies. They will be able to benefit from each other's expertise. For example, the Canadian Institutes of Health Research conduct excellent health research thanks to their peer assessment process. They will ensure that health research in developing countries respects international standards of excellence, while meeting the specific health research needs of these countries.

Honourable senators, at this time when the Government of Canada is following up on its commitment to international assistance through the fund for Africa, I urge it to emphasize the health of Africans first and foremost and the importance of the role of research to promote it.

[English]

**Hon. Nicholas W. Taylor:** Would the honourable senator accept a question?

**Senator Morin:** Yes, I will.

**Senator Taylor:** I was in Burkina Faso and toured some medical facilities with Dr. Martin of the Alliance Party. If anyone is ever picking that carcass over, the Liberals would be wise to go after that bone because he is a very intelligent and interesting individual.

Dr. Martin pointed out, and I have done some research since then, that a great deal of the research and money spent by the drug companies now is on drugs that are sold to the western world, or to those of us who are getting grey hair and trying to buy a little bit of eternity. I think Viagra is a good example of that. Our society is not interested in experimenting with drugs that treat African or tropical diseases. That is not where the wealthy of the world live.

Consequently, do you have any recommendations on how to get the large drug companies of the world to start turning out suitable drugs? Not AIDS drugs, because AIDS is something that we can equate with on this side, but dengue fever and other types of fevers that are unique to tropical climates. Also, because of the typical diet of the poor people we looked at, perhaps there should be some research into changing their diets so that they can live a healthier life.

**Senator Morin:** Senator Taylor is perfectly right. The drug companies have not and will not invest funds in diseases that are located in poor countries. That is not where the profits are. Their aim, of course, is to make profits. However, more and more initiatives are being financed by governments, non-profit organizations and private foundations to support research and development. I am thinking in particular of the Gates Foundation, which has invested nearly a billion dollars into vaccines for the Third World.

Governments are now taking action. Especially, I might say, the Canadian government. In the last budget it has allocated \$500 million to the African situation. Perhaps my plea was not clear enough: Part of that money should be allocated to health. If the health problem is not solved, the rest does not follow. Within the health agenda, I made a plea for research. A research policy is, as the honourable senator said, by far the strongest basis for any solution in this regard.

The recent initiative of four federal organizations, CIHR, CIDA, the International Development Research Centre and Health Canada, to join together and form an initiative to support research in the Third World, and especially in Africa, is excellent. Unfortunately, it is not very clear how much money will be given to that initiative. I do hope part of the \$500 million that has been allocated in the last budget will be going to this Global Health Research Initiative.

• 620 •

**The Hon. the Speaker *pro tempore*:** If no other senator wishes to speak, this inquiry is considered debated.

## STATUS OF LEGAL AID PROGRAM

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Callbeck calling the attention of the Senate to the status of legal aid in Canada and the difficulties experienced by many low-income Canadians in acquiring adequate legal assistance, for both criminal and civil matters.  
—(Honourable Senator Milne).

**Hon. Lorna Milne:** Honourable senators, I am pleased to rise this afternoon to seize this opportunity provided by Senator Callbeck's inquiry into Canada's legal aid programs to discuss some very serious problems facing Canada's justice system.

Our Constitution is founded on the rule of law. We have a right to expect the even application of the law to all Canadians, rich or poor. Over the years, Canada's laws have become increasingly complex and specialized. There is little doubt that professional legal advice is extremely beneficial, if not absolutely essential, for even the most basic of legal disputes.

As Senator Callbeck has pointed out, thousands of Canadians are denied access to legal advice under current legal aid programs. As a result, they are denied access to the rule of law upon which our Constitution is founded.

I wish to contribute to this inquiry by providing honourable senators with feedback from a slightly different perspective on the problems that reduced legal aid funding is creating in our country, the perspective from grassroots lawyers in Canada.

This past summer, I took some time to reach out to lawyers across the country. I asked them to provide me with their thoughts on what issues they considered to be most important to them. As I chair the Standing Senate Committee on Legal and Constitutional Affairs, although I am not a lawyer myself, I thought the exercise might help broaden my perspective on legal issues and help me in my role as chair.

The message that these lawyers sent to me was unexpectedly powerful. Although the lawyers I wrote to were given absolutely no guidance on what issues to talk about, fully 75 per cent of the respondents to my inquiries specifically pointed to the lack of resources in Canada's legal system as problematic. In particular, the lack of legal aid funding is a major concern of Canada's legal community.

If honourable senators read Madam Justice Louise Arbour's comments in *The Globe and Mail* yesterday, you would see that she warned that if legal aid programs are left to fall apart, there will be serious consequences for the development of the law in Canada. This concern extends throughout the legal community across the land and at all levels. Lawyers are starting to speak out about it.



Practitioners of civil law, criminal law and human rights law are all concerned that ordinary Canadians are being let down because they are not wealthy enough to use Canada's courts. This is particularly evident in civil disputes where the most dramatic cuts to legal aid funding have taken place. As a result, and as pointed out by Senator Callbeck in her speech, those who are accused of committing crimes are given the resources to properly defend themselves, while the victims of crime and other kinds of damage are left to fend for themselves without any legal assistance.

Dean Peter Hogg of Osgoode Hall Law School listed as the primary challenge facing Canada's justice system the high cost of legal services and consequent restrictions on access by the poor and even the middle class.

Dean Bruce Feldthusen of the University of Ottawa Faculty of Law also pointed to the lack of public support for broader social needs. In his view, it is simply too expensive and time consuming for most people to bring cases to court. In most provinces, legal aid plans do not cover civil suits. As such, the victims, so-called, of non-criminal activity of other citizens are left without any recourse if they cannot afford themselves to access the court system.

The question that should then be asked is why should legal aid be only for those accused of criminal offences? Proper financing of civil actions is key to maintaining a society governed by the rule of law. Shannon O'Byrne of the University of Alberta Faculty of Law noted: "The civil justice system is fundamental to the peaceable resolution of disputes arising in Canadian society. Divorce and family issues, consumer claims ranging from house purchases to car leases, professional service complaints, concerns relating to government services or public entitlements, and the enforcement of rights such as the rights to equality and to privacy are but a few of the many reasons to invoke the civil justice system." We simply cannot assume that these disputes and concerns are of less importance to Canadians and, therefore, are deserving of less support from the federal government.

The legal rights that a person has arising out of a breached contract or the negligence of another person are no less important than is prosecuting criminal activity. One of the fundamental roles of the government is to provide a forum for rational, thoughtful and non-violent resolution of disputes amongst its citizens. In a modern society, this means giving those involved in civil law disputes access to quality legal representation whether or not they can afford it. This simply is not happening in Canada today.

One area where the lack of legal aid has significant repercussions is in human rights cases. Legal aid is not available because under the Canadian Human Rights Code, a person with a human rights complaint does not have the right to start an action on her own. The same is true for most provincial human rights regimes.

Only a human rights tribunal can start an action after investigating a complaint made by an alleged victim. Once a

complaint is lodged, the victim has no control over the process, even though the victim may eventually be entitled to compensation for the activity of others. For example, she may be entitled to damages because her employer did not promote her, but only the human rights tribunal can dictate the progress of the complaint. The victim has no legal right to make decisions in the process or independently sue for human rights violations.

This creates a huge barrier to justice. At present, under the Canadian Human Rights Act, the tribunal is woefully underfunded. Recent reports in *The Globe and Mail* and the *Ottawa Citizen* have pointed to widespread resignations and poor morale at the tribunal. It has also been criticized for spending too much time concentrating on international human rights issues and too little time resolving complaints that have been made by Canadians about actions right here at home.

Due to the high turnover of staff at the tribunal and the heavy caseload, it often takes five years or more for a case to be resolved, if the tribunal even decides that the issue is important enough to pursue in the first place. This has led to many calls for changes to human rights legislation that would allow victims to pursue complaints on their own through the courts.

If the government wants to maintain this model that it has set up, it must commit to properly funding its human rights tribunals so that disputes can be heard in an expeditious fashion. If public financial support for Canada's justice system is allowed to further deteriorate, citizens could become more likely to take the law into their own hands, and the government has a responsibility to maintain order.

A civil or human rights dispute arising between two people is no less important than a criminal case. Those citizens are also entitled to the benefit of the courts. As such, governments must start to broadly fund legal aid so that honest people can have a proper way to resolve their disputes through civil action. Any less of a commitment is evidence that governments are shirking their responsibility to maintain order and justice in our society.

•(1630)

**Hon. John G. Bryden:** As Senator Milne was making her speech in relation to legal aid and legal services being provided to all Canadians, I could not help but think back to the time when medical services were not equally available to all Canadians — in the 1940s — and when a very similar speech would have been made in relation to all Canadians needing a universal medicare system where everyone is treated equally and has the same rights.

The logical progression of Senator Milne's speech, in my opinion, is that we would have a universal legal care system in Canada. With all due respect, if the honourable senator thinks medicare is expensive, and if she thinks that throwing more money at medicare will fix the problem — and I know she does not — then just let the lawyers into universal legal care.

My point is this: Some of the lawyers will say, "If we just had more money to pay me 75 per cent of the standard tariff" — which is what legal aid pays — "then we could solve all these problems." The medicare problem is not as simple to solve. It is absolutely true that, taking as an example a small town in New Brunswick, if one lawyer sets up an office, he cannot make a living. However, if two lawyers set up an office, they make a wonderful living.

Prior to accepting the premise of extending the funding to civil litigation and to all of these other things, a thorough analysis would have to be done to discover whether it would improve the situation at all — other than to improve the bottom level of lawyers who tend to depend on that as their principal source of income.

**Senator Milne:** In response to Senator Bryden, I quite agree with what he has said. I do not want this to lead us to a more litigious society than we already have. However, I believe that the people at the bottom levels of society in which we live, and there are increasing numbers of them as the gap between rich and poor broadens in this country, should be able to access legal aid for a just and fair case.

On motion of Senator Stratton, for Senator Spivak, debate adjourned.

[Translation]

## ROLE OF CULTURE IN CANADA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Gauthier calling the attention of the Senate to the important role of culture in Canada and the image that we project abroad.—(*Honourable Senator Gauthier*).

**Hon. Jean-Robert Gauthier:** Honourable senators, the definition of Canadian culture is hard to interpret, I admit, because we are a people with roots in a multitude of cultures. We speak of multiculturalism as the Canadian reality, and the reflection of what we are. We have a national multiculturalism policy. It is even entrenched in our Constitution in section 27, where it is stated that multiculturalism is part of our Canadian heritage.

The object of my inquiry is to interest honourable senators in addressing culture, which is not discussed in the other place. In the Senate, it should be, because this is an important subject.

In 1994, when I was an MP, and Chair of the Foreign Affairs Committee, I was invited by the Prime Minister to co-chair an inquiry on Canada's foreign policy, along with the Honourable Allan MacEachen, a senator at that time. This was an interesting and worthwhile exercise. The committee was mandated to examine the changes going on in the world and their impact on Canada, and to suggest the principles and priorities which ought to direct Canada's foreign policy. The committee report, "Canada's Foreign Policy: Principles and Priorities for the

Future," was tabled on November 15, 1994. When I announced my inquiry, it was with the intention of drawing attention to the report's seventh anniversary. I wanted to focus on the importance for Canadians of the cultural phenomenon. We tend to forget it and do not bring it to the attention of the public often enough.

Everyone acknowledges how international forces shape everyone's lives and prospects for the future. The committee consulted Canadians. We met hundreds of groups. We published 10,000 pages of evidence. It was interesting.

All six recommendations of the report are just as pertinent in 2002 as they were in 1994. Things have not changed much in the meantime. We wanted a foreign policy based on values. We wanted Canada's actions to be a better reflection of its global vision. We are interested in the globalisation of trade, investment and finances. For several years, the Department of Foreign Affairs has been giving the issue some thought. It has put forward several proposals for action. Occasionally, we hear about the concerns some have about culture and the important role it plays in foreign policy.

It is in this context that I am making my comments. For the first time, in 1994, Parliament carried out a study, through the Foreign Affairs Committee, including a whole chapter on Canadian culture. It was a first. This was one of the conditions co-chair MacEachen and myself had set, namely to be allowed by the government to include in our report a chapter on culture. We wanted to know what influence we had abroad and how we were perceived beyond our borders.

I have been to Europe a few times. Some of you have been there more often than I. Financial or economic issues do not receive much coverage in European newspapers. In Paris, London, you hear about Céline Dion and other Canadian artists who have put on a show, published a book and so on and so forth.

Even Jean Lapointe will be mentioned in Paris as having put on a good show. Newspapers rarely talk about the economy. They will write about culture before they even report that Canada has signed a free trade agreement with the United States and Mexico. This is of no interest to Europeans. However, they will go to see Gilles Vigneault, and they will buy Canadian paintings.

•(1640)

This is the real way to get to promote ourselves. Literary or recording artists should accompany ministers who travel abroad. It would not cost any more. Why not bring the Toronto or Montreal Symphony Orchestra with them?

The planes are normally filled with bureaucrats. Why not bring Canadian artists along to showcase our rich culture?

I would like to draw the attention of honourable senators to the economic spin-off from the cultural sector. In 1996-1997, there was \$22 billion in direct economic impact, or 3.1 per cent of the GDP. In 2000, exports of Canadian cultural goods reached \$2.35 billion, an increase of 47 per cent since 1996. Exports in Canadian cultural services reached \$2.12 billion, an increase of 30 per cent.

[ Senator Bryden ]



In 1994, the Standing Committee on Foreign Affairs invited John Ralston Saul, author and consort of the Governor General, to write an essay, which he did. I would invite all honourable senators to read it; it is excellent. We even based our work on the work of Senator Serge Joyal who, at that time, was working as a consultant in the field of foreign affairs.

The report dealt with international cultural policy in the 1990s, the issues and the means of renewal. The two documents by John Ralston Saul and Serge Joyal contained some worthwhile proposals that specifically addressed the cultural industry.

Senator Joyal had identified three approaches: the fundamental mission, reorganization and increased staffing in the Arts Promotion Division, and regional cultural centres.

I would encourage you to read these documents, which are not only interesting but also important for Canadians. There needs to be a debate on the influence of Canadian culture on the Canadian economy, and on how we project the image of Canada beyond our borders.

Canada has a personality that is very much all its own. Few countries, in fact, have two official languages and a multicultural policy that is even stated in its constitution. These are resources that must be exploited, and it would be good if there were more media coverage.

In conclusion, I will say that it is desirable for attention to be drawn to the importance of culture in developing and maintaining our own national identity, in a world so characterized by open markets and such a variety of means of communication. It is important for Canada to be part of this.

The role the State must play in the protection and development of Canadian cultural identity is crucial. Japan spends more than Canada does to make its culture known throughout the world. Canada spends three dollars per capita to tell the world we are an example of culture and multiculturalism. The Americans do not do this because they do not have any definition of culture. To them, it is entertainment.

[English]

We do not talk about culture to the Americans; we say we have entertainment. We sell Coca-Cola in our films. We sell our cigarettes that way. We sell our products through our cultural instruments: film, music and magazines. We must take our place and invest in this subject of culture.

On motion of Senator LaPierre, debate adjourned.

The Senate adjourned until Wednesday, March 6, 2002, at 1:30 p.m.





## **APPENDIX**

Officers of the Senate

The Ministry

Senators

(Listed according to seniority, alphabetically and by provinces)

Committees of the Senate

**THE SPEAKER**

THE HONOURABLE DANIEL P. HAYS

**THE LEADER OF THE GOVERNMENT**

THE HONOURABLE SHARON CARSTAIRS, P.C.

**THE LEADER OF THE OPPOSITION**

THE HONOURABLE JOHN LYNCH-STAUTON

---

**OFFICERS OF THE SENATE****CLERK OF THE SENATE AND CLERK OF THE PARLIAMENTS**

PAUL BÉLISLE

**DEPUTY CLERK, PRINCIPAL CLERK, LEGISLATIVE SERVICES**

GARY O'BRIEN

**LAW CLERK AND PARLIAMENTARY COUNSEL**

MARK AUDCENT

**USHER OF THE BLACK ROD (ACTING)**

BLAIR ARMITAGE



**THE MINISTRY**

According to Precedence

(March 5, 2002)

The Right Hon. Jean Chrétien	Prime Minister
The Hon. David M. Collett	Minister of Transport
The Hon. David Anderson	Minister of the Environment
The Hon. Ralph E. Goodale	Leader of the Government in the House of Commons
	Minister responsible for the Canadian Wheat Board and Federal Interlocutor for Métis and Non-Status Indians
The Hon. Sheila Copps	Minister of Canadian Heritage
The Hon. John Manley	Deputy Prime Minister and Minister of Infrastructure and Crown Corporations
The Hon. Paul Martin	Minister of Finance
The Hon. Arthur C. Eggleton	Minister of National Defence
The Hon. Anne McLellan	Minister of Health
The Hon. Allan Rock	Minister of Industry
The Hon. Lawrence MacAulay	Solicitor General of Canada
The Hon. Lucienne Robillard	President of the Treasury Board
The Hon. Martin Cauchon	Minister of Justice and Attorney General of Canada
The Hon. Jane Stewart	Minister of Human Resources Development
The Hon. Stéphane Dion	President of the Queen's Privy Council for Canada and Minister of Intergovernmental Affairs
The Hon. Pierre Pettigrew	Minister of International Trade
The Hon. Don Boudria	Minister of Public Works and Government Services
The Hon. Lyle Vanclief	Minister of Agriculture and Agri-Food
The Hon. Herb Dhaliwal	Minister of Natural Resources
The Hon. Claudette Bradshaw	Minister of Labour and Secretary of State (Multiculturalism) (Status of Women)
The Hon. Robert Daniel Nault	Minister of Indian Affairs and Northern Development
The Hon. Elinor Caplan	Minister for National Revenue
The Hon. Denis Coderre	Minister of Citizenship and Immigration
The Hon. Sharon Carstairs	Leader of the Government in the Senate
The Hon. Robert G. Thibault	Minister of Fisheries and Oceans
The Hon. Rey Pagtakhan	Minister of Veterans Affairs
The Hon. William Graham	Minister of Foreign Affairs
The Hon. Susan Whelan	Minister for International Cooperation
The Hon. Gerry Byrne	Minister of State (Atlantic Canada Opportunities Agency)
The Hon. Ethel Blondin-Andrew	Secretary of State (Children and Youth)
The Hon. David Kilgour	Secretary of State (Asia-Pacific)
The Hon. Andrew Mitchell	Secretary of State (Rural Development) (Federal Economic Development Initiative for Northern Ontario)
The Hon. Maurizio Bevilacqua	Secretary of State (Science, Research and Development)
The Hon. Paul DeVillers	Secretary of State (Amateur Sport) and Deputy Leader of the Government in the House of Commons
The Hon. Gar Knutson	Secretary of State (Central and Eastern Europe and Middle East)
The Hon. Denis Paradis	Secretary of State (Latin America and Africa) (Francophonie)
The Hon. Claude Drouin	Secretary of State (Economic Development Agency of Canada for the Regions of Quebec)
The Hon. John McCallum	Secretary of State (International Financial Institutions)
The Hon. Stephen Owen	Secretary of State (Western Economic Diversification) (Indian Affairs and Northern Development)

## SENATORS OF CANADA

## ACCORDING TO SENIORITY

(March 5, 2002)

Senator	Designation	Post Office Address
THE HONOURABLE		
Herbert O. Sparrow	Saskatchewan	North Battleford, Sask.
Edward M. Lawson	Vancouver	Vancouver, B.C.
Bernard Alasdair Graham, P.C.	The Highlands	Sydney, N.S.
Jack Austin, P.C.	Vancouver South	Vancouver, B.C.
Willie Adams	Nunavut	Rankin Inlet, Nunavut
Lowell Murray, P.C.	Pakenham	Ottawa, Ont.
C. William Doody	Harbour Main-Bell Island	St. John's, Nfld.
Peter Alan Stollery	Bloor and Yonge	Toronto, Ont.
Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa, Ont.
E. Leo Kolber	Victoria	Westmount, Que.
Michael Kirby	South Shore	Halifax, N.S.
Jerahmiel S. Grafstein	Metro Toronto	Toronto, Ont.
Anne C. Cools	Toronto-Centre-York	Toronto, Ont.
Charlie Watt	Inkerman	Kuujuuaq, Que.
Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary, Alta.
Joyce Fairbairn, P.C.	Lethbridge	Lethbridge, Alta.
Colin Kenny	Rideau	Ottawa, Ont.
Pierre De Bané, P.C.	De la Vallière	Montreal, Que.
Eymard Georges Corbin	Grand-Sault	Grand-Sault, N.B.
Brenda Mary Robertson	Riverview	Shediac, N.B.
Norman K. Atkins	Markham	Toronto, Ont.
Ethel Cochrane	Newfoundland	Port-au-Port, Nfld.
Eileen Rossiter	Prince Edward Island	Charlottetown, P.E.I.
Mira Spivak	Manitoba	Winnipeg, Man.
Roch Bolduc	Gulf	Sainte-Foy, Que.
Gérald-A. Beaudoin	Rigaud	Hull, Que.
Pat Carney, P.C.	British Columbia	Vancouver, B.C.
Gerald J. Comeau	Nova Scotia	Church Point, N.S.
Consiglio Di Nino	Ontario	Downsview, Ont.
Donald H. Oliver	Nova Scotia	Halifax, N.S.
Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton, N.B.
John Buchanan, P.C.	Nova Scotia	Halifax, N.S.
John Lynch-Staunton	Grandville	Georgeville, Que.
James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie, Ont.
J. Trevor Eyton	Ontario	Caledon, Ont.
Wilbert Joseph Keon	Ottawa	Ottawa, Ont.
Michael Arthur Meighen	St. Marys	Toronto, Ont.
J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth, N.S.
Janis G. Johnson	Winnipeg-Interlake	Winnipeg, Man.
A. Raynell Andreychuk	Regina	Regina, Sask.
Jean-Claude Rivest	Stadacona	Quebec, Que.
Terrance R. Stratton	Red River	St. Norbert, Man.
Marcel Prud'homme, P.C.	La Salle	Montreal, Que.
Leonard J. Gustafson	Saskatchewan	Macoun, Sask.
David Tkachuk	Saskatchewan	Saskatoon, Sask.
W. David Angus	Alma	Montreal, Que.



## ACCORDING TO SENIORITY

Senator	Designation	Post Office Address
THE HONOURABLE		
Pierre Claude Nolin	De Salaberry	Quebec, Que.
Marjory LeBreton	Ontario	Manotick, Ont.
Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.
Lise Bacon	De la Durantaye	Laval, Que.
Sharon Carstairs, P.C.	Manitoba	Victoria Beach, Man.
Landon Pearson	Ontario	Ottawa, Ont.
Jean-Robert Gauthier	Ottawa-Vanier	Ottawa, Ontario
John G. Bryden	New Brunswick	Bayfield, N.B.
Rose-Marie Losier-Cool	Tracadie	Bathurst, N.B.
Céline Hervieux-Payette, P.C.	Bedford	Montreal, Que.
William H. Rompkey, P.C.	Labrador	North West River, Labrador, Nfld.
Lorna Milne	Peel County	Brampton, Ont.
Marie-P. Poulin	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.
Shirley Maheu	Rougemont	Saint-Laurent, Que.
Nicholas William Taylor	Sturgeon	Chestermere, Alta.
Wilfred P. Moore	Stanhope St./Bluenose	Chester, N.S.
Lucie Pépin	Shawinigan	Montreal, Que.
Fernand Robichaud, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.
Catherine S. Callbeck	Prince Edward Island	Central Bedeque, P.E.I.
Marisa Ferretti Barth	Repentigny	Pierrefonds, Que.
Serge Joyal, P.C.	Kennebec	Montreal, Que.
Thelma J. Chalifoux	Alberta	Morinville, Alta.
Joan Cook	Newfoundland	St. John's, Nfld.
Ross Fitzpatrick	Okanagan-Similkameen	Kelowna, B.C.
The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto, Ont.
Francis William Mahovlich	Toronto	Toronto, Ont.
Richard H. Kroft	Manitoba	Winnipeg, Man.
Douglas James Roche	Edmonton	Edmonton, Alta.
Joan Thorne Fraser	De Lorimier	Montreal, Que.
Aurélien Gill	Wellington	Mashteuiatsh, Pointe-Bleue, Que.
Vivienne Poy	Toronto	Toronto, Ont.
Ione Christensen	Yukon Territory	Whitehorse, Y.T.
George Furey	Newfoundland and Labrador	St. John's, Nfld.
Nick G. Sibbeston	Northwest Territories	Fort Simpson, N.W.T.
Isobel Finnerty	Ontario	Burlington, Ont.
John Wiebe	Saskatchewan	Swift Current, Sask.
Tommy Banks	Alberta	Edmonton, Alta.
Jane Cordy	Nova Scotia	Dartmouth, N.S.
Raymond C. Setlakwe	The Laurentides	Thetford Mines, Que.
Yves Morin	Lauzon	Quebec, Que.
Elizabeth M. Hubley	Prince Edward Island	Kensington, P.E.I.
Jim Tunney	Ontario	Grafton, Ont.
Laurier L. LaPierre	Ontario	Ottawa, Ont.
Viola Léger	New Brunswick	Moncton, N.B.
Mobina S. B. Jaffer	British Columbia	North Vancouver, B.C.
Jean Lapointe	Saurel	Magog, Que.
Gerard A. Phalen	Nova Scotia	Glace Bay, N.S.
Joseph A. Day	Saint John-Kennebecasis	Hampton, N.B.
Michel Biron	Mille Isles	Nicolet, Que.
Ronald J. Duhamel, P.C.	Manitoba	St. Boniface, Man.

## SENATORS OF CANADA

## ALPHABETICAL LIST

(March 5, 2002)

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Adams, Willie	Nunavut	Rankin Inlet, Nunavut	Lib
Andreychuk, A. Raynell	Regina	Regina, Sask.	PC
Angus, W. David	Alma	Montreal, Que.	PC
Atkins, Norman K.	Markham	Toronto, Ont.	PC
Austin, Jack, P.C.	Vancouver South	Vancouver, B.C.	Lib
Bacon, Lise	De la Durantaye	Laval, Que.	Lib
Banks, Tommy	Alberta	Edmonton, Alta.	Lib
Beaudoin, Gérald-A.	Rigaud	Hull, Que.	PC
Biron, Michel	Mille Isles	Nicolet, Que.	Lib
Bolduc, Roch	Gulf	Sainte-Foy, Que.	PC
Bryden, John G.	New Brunswick	Bayfield, N.B.	Lib
Buchanan, John, P.C.	Halifax	Halifax, N.S.	PC
Callbeck, Catherine S.	Prince Edward Island	Central Bedeque, P.E.I.	Lib
Carney, Pat, P.C.	British Columbia	Vancouver, B.C.	PC
Carstairs, Sharon, P.C.	Manitoba	Victoria Beach, Man.	Lib
Chalifoux, Thelma J.	Alberta	Morinville, Alta.	Lib
Christensen, Ione	Yukon Territory	Whitehorse, Y.T.	Lib
Cochrane, Ethel	Newfoundland	Port-au-Port, Nfld.	PC
Comeau, Gerald J.	Nova Scotia	Church Point, N.S.	PC
Cook, Joan	Newfoundland	St. John's, Nfld.	Lib
Cools, Anne C.	Toronto-Centre-York	Toronto, Ont.	Lib
Corbin, Eymard Georges	Grand-Sault	Grand-Sault, N.B.	Lib
Cordy, Jane	Nova Scotia	Dartmouth, N.S.	Lib
Day, Joseph A.	Saint John-Kennebecasis	Hampton, N.B.	Lib
De Bané, Pierre, P.C.	De la Vallière	Montreal, Que.	Lib
Di Nino, Consiglio	Ontario	Downsview, Ont.	PC
Doody, C. William	Harbour Main-Bell Island	St. John's, Nfld.	PC
Duhamel, Ronald J., P.C.	Manitoba	St. Boniface, Man.	Lib
Eyton, J. Trevor	Ontario	Caledon, Ont.	PC
Fairbairn, Joyce, P.C.	Lethbridge	Lethbridge, Alta.	Lib
Ferretti Barth, Marisa	Repentigny	Pierrefonds, Que.	Lib
Finnerty, Isobel	Ontario	Burlington, Ont.	Lib
Fitzpatrick, Ross	Okanagan-Similkameen	Kelowna, B.C.	Lib
Forrestall, J. Michael	Dartmouth and the Eastern Shore	Dartmouth, N.S.	PC
Fraser, Joan Thorne	De Lorimier	Montreal, Que.	Lib
Furey, George	Newfoundland and Labrador	St. John's, Nfld.	Lib
Gauthier, Jean-Robert	Ottawa-Vanier	Ottawa, Ont.	Lib
Gill, Aurélien	Wellington	Mashteuiatsh, Pointe-Bleue, Que.	Lib
Grafstein, Jeremiah S.	Metro Toronto	Toronto, Ont.	Lib
Graham, Bernard Alasdair, P.C.	The Highlands	Sydney, N.S.	Lib
Gustafson Leonard J.	Saskatchewan	Macoun, Sask.	PC
Hays, Daniel Phillip, <i>Speaker</i>	Calgary	Calgary, Alta.	Lib
Hervieux-Payette, Céline, P.C.	Bedford	Montreal, Que.	Lib
Hubley, Elizabeth M.	Prince Edward Island	Kensington, P.E.I.	Lib
Jaffer, Mobina S. B.	British Columbia	North Vancouver, B.C.	Lib
Johnson, Janis G.	Winnipeg-Interlake	Winnipeg, Man.	PC
Joyal, Serge, P.C.	Kennebec	Montreal, Que.	Lib
Kelleher, James Francis, P.C.	Ontario	Sault Ste. Marie, Ont.	PC
Kenny, Colin	Rideau	Ottawa, Ont.	Lib
Keon, Wilbert Joseph	Ottawa	Ottawa, Ont.	PC
Kinsella, Noël A.	Fredericton-York-Sunbury	Fredericton, N.B.	PC
Kirby, Michael	South Shore	Halifax, N.S.	Lib



## SENATORS OF CANADA

Senator	Designation	Post Office Address	Political Affiliation
THE HONOURABLE			
Kolber, E. Leo	Victoria	Westmount, Que.	Lib
Kroft, Richard H.	Manitoba	Winnipeg, Man.	Lib
LaPierre, Laurier L.	Ontario	Ottawa, Ont.	Lib
Lapointe, Jean	Saurel	Magog, Que.	Lib
Lawson, Edward M.	Vancouver	Vancouver, B.C.	Ind
LeBreton, Marjory	Ontario	Manotick, Ont.	PC
Léger, Viola	New Brunswick	Moncton, N.B.	Lib
Losier-Cool, Rose-Marie	Tracadie	Bathurst, N.B.	Lib
Lynch-Staunton, John	Grandville	Georgeville, Que.	PC
Maheu, Shirley	Rougemont	Saint-Laurent, Que.	Lib
Mahovlich, Francis William	Toronto	Toronto, Ont.	Lib
Meighen, Michael Arthur	St. Marys	Toronto, Ont.	PC
Milne, Lorna	Peel County	Brampton, Ont.	Lib
Moore, Wilfred P.	Stanhope St./Bluenose	Chester, N.S.	Lib
Morin, Yves	Lauson	Quebec, Que.	Lib
Murray, Lowell, P.C.	Pakenham	Ottawa, Ont.	PC
Nolin, Pierre Claude	De Salaberry	Quebec, Que.	PC
Oliver, Donald H.	Nova Scotia	Halifax, N.S.	PC
Pearson, Landon	Ontario	Ottawa, Ontario	Lib
Pépin, Lucie	Shawinigan	Montreal, Que.	Lib
Phalen, Gerard A.	Nova Scotia	Glace Bay, N.S.	Lib
Pitfield, Peter Michael, P.C.	Ottawa-Vanier	Ottawa, Ont.	Ind
Poulin, Marie-P.	Nord de l'Ontario/Northern Ontario	Ottawa, Ont.	Lib
Poy, Vivienne	Toronto	Toronto, Ont.	Lib
Prud'homme, Marcel, P.C.	La Salle	Montreal, Que.	Ind
Rivest, Jean-Claude	Stadacona	Quebec, Que.	PC
Robertson, Brenda Mary	Riverview	Shediac, N.B.	PC
Robichaud, Fernand, P.C.	New Brunswick	Saint-Louis-de-Kent, N.B.	Lib
Roche, Douglas James	Edmonton	Edmonton, Alta.	Ind
Rompkey, William H., P.C.	Labrador	North West River, Labrador, Nfld.	Lib
Rossiter, Eileen	Prince Edward Island	Charlottetown, P.E.I.	PC
St. Germain, Gerry, P.C.	Langley-Pemberton-Whistler	Maple Ridge, B.C.	CA
Setlakwe, Raymond C.	The Laurentides	Thetford Mines, Que.	Lib
Sibbeston, Nick G.	Northwest Territories	Fort Simpson, N.W.T.	Lib
Sparrow, Herbert O.	Saskatchewan	North Battleford, Sask.	Lib
Spivak, Mira	Manitoba	Winnipeg, Man.	PC
Stollery, Peter Alan	Bloor and Yonge	Toronto, Ont.	Lib
Stratton, Terrance R.	Red River	St. Norbert, Man.	PC
Taylor, Nicholas William	Sturgeon	Chestermere, Alta.	Lib
Tkachuk, David	Saskatchewan	Saskatoon, Sask.	PC
Tunney, Jim	Ontario	Grafton, Ont.	Lib
Watt, Charlie	Inkerman	Kuujuuaq, Que.	Lib
Wiebe, John	Saskatchewan	Swift Current, Sask.	Lib
Wilson, The Very Reverend Dr. Lois M.	Toronto	Toronto, Ont.	Ind

## SENATORS OF CANADA

## BY PROVINCE AND TERRITORY

(March 5, 2002)

## ONTARIO—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Lowell Murray, P.C.	Pakenham	Ottawa
2 Peter Alan Stollery	Bloor and Yonge	Toronto
3 Peter Michael Pitfield, P.C.	Ottawa-Vanier	Ottawa
4 Jeremiah S. Grafstein	Metro Toronto	Toronto
5 Anne C. Cools	Toronto-Centre-York	Toronto
6 Colin Kenny	Rideau	Ottawa
7 Norman K. Atkins	Markham	Toronto
8 Consiglio Di Nino	Ontario	Downsview
9 James Francis Kelleher, P.C.	Ontario	Sault Ste. Marie
10 John Trevor Eyton	Ontario	Caledon
11 Wilbert Joseph Keon	Ottawa	Ottawa
12 Michael Arthur Meighen	St. Marys	Toronto
13 Marjory LeBreton	Ontario	Manotick
14 Landon Pearson	Ontario	Ottawa
15 Jean-Robert Gauthier	Ottawa-Vanier	Ottawa
16 Lorna Milne	Peel County	Brampton
17 Marie-P. Poulin	Northern Ontario	Ottawa
18 The Very Reverend Dr. Lois M. Wilson	Toronto	Toronto
19 Francis William Mahovlich	Toronto	Toronto
20 Vivienne Poy	Toronto	Toronto
21 Isobel Finnerty	Ontario	Burlington
22 Jim Tunney	Ontario	Grafton
23 Laurier L. LaPierre	Ontario	Ottawa
24		



## SENATORS BY PROVINCE AND TERRITORY

## QUEBEC—24

Senator	Designation	Post Office Address
THE HONOURABLE		
1 E. Leo Kolber .....	Victoria .....	Westmount
2 Charlie Watt .....	Inkerman .....	Kuujuuaq
3 Pierre De Bané, P.C. ....	De la Vallière .....	Montreal
4 Roch Bolduc .....	Gulf .....	Sainte-Foy
5 Gérald-A. Beaudoin .....	Rigaud .....	Hull
6 John Lynch-Staunton .....	Grandville .....	Georgeville
7 Jean-Claude Rivest .....	Stadacona .....	Quebec
8 Marcel Prud'homme, P.C. ....	La Salle .....	Montreal
9 W. David Angus .....	Alma .....	Montreal
10 Pierre Claude Nolin .....	De Salaberry .....	Quebec
11 Lise Bacon .....	De la Durantaye .....	Laval
12 Céline Hervieux-Payette, P.C. ....	Bedford .....	Montreal
13 Shirley Maheu .....	Rougemont .....	Ville de Saint-Laurent
14 Lucie Pépin .....	Shawinigan .....	Montreal
15 Marisa Ferretti Barth .....	Repentigny .....	Pierrefonds
16 Serge Joyal, P.C. ....	Kennebec .....	Montreal
17 Joan Thorne Fraser .....	De Lorimier .....	Montreal
18 Aurélien Gill .....	Wellington .....	Mashteuiatsh, Pointe-Bleue
19 Raymond C. Setlakwe .....	The Laurentides .....	Thetford Mines
20 Yves Morin .....	Lauzon .....	Quebec
21 Jean Lapointe .....	Saurel .....	Magog
22 Michel Biron .....	Mille Isles .....	Nicolet
23 .....	.....	.....
24 .....	.....	.....

## SENATORS BY PROVINCE—MARITIME DIVISION

## NOVA SCOTIA—10

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Bernard Alasdair Graham, P.C.	The Highlands	Sydney
2 Michael Kirby	South Shore	Halifax
3 Gerald J. Comeau	Nova Scotia	Church Point
4 Donald H. Oliver	Nova Scotia	Halifax
5 John Buchanan, P.C.	Halifax	Halifax
6 J. Michael Forrestall	Dartmouth and Eastern Shore	Dartmouth
7 Wilfred P. Moore	Stanhope St./Bluenose	Chester
8 Jane Cordy	Nova Scotia	Dartmouth
9 Gerard A. Phalen	Nova Scotia	Glace Bay
10		

## NEW BRUNSWICK—10

THE HONOURABLE		
1 Eymard Georges Corbin	Grand-Sault	Grand-Sault
2 Brenda Mary Robertson	Riverview	Shediac
3 Noël A. Kinsella	Fredericton-York-Sunbury	Fredericton
4 John G. Bryden	New Brunswick	Bayfield
5 Rose-Marie Losier-Cool	Tracadie	Bathurst
6 Fernand Robichaud, P.C.	Saint-Louis-de-Kent	Saint-Louis-de-Kent
7 Viola Léger	New Brunswick	Moncton
8 Joseph A. Day	Saint John-Kennebecasis	Hampton
9		
10		

## PRINCE EDWARD ISLAND—4

THE HONOURABLE		
1 Eileen Rossiter	Prince Edward Island	Charlottetown
2 Catherine S. Callbeck	Prince Edward Island	Central Bedeque
3 Elizabeth M. Hubley	Prince Edward Island	Kensington
4		



## SENATORS BY PROVINCE—WESTERN DIVISION

## MANITOBA—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 Mira Spivak	Manitoba	Winnipeg
2 Janis G. Johnson	Winnipeg-Interlake	Winnipeg
3 Terrance R. Stratton	Red River	St. Norbert
4 Sharon Carstairs, P.C.	Manitoba	Victoria Beach
5 Richard H. Kroft	Manitoba	Winnipeg
6 Ronald J. Duhamel, P.C.	Manitoba	St. Boniface

## BRITISH COLUMBIA—6

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1 Edward M. Lawson	Vancouver	Vancouver
2 Jack Austin, P.C.	Vancouver South	Vancouver
3 Pat Carney, P.C.	British Columbia	Vancouver
4 Gerry St. Germain, P.C.	Langley-Pemberton-Whistler	Maple Ridge
5 Ross Fitzpatrick	Okanagan-Similkameen	Kelowna
6 Mobina S.B. Jaffer	British Columbia	North Vancouver

## SASKATCHEWAN—6

THE HONOURABLE		
1 Herbert O. Sparrow	Saskatchewan	North Battleford
2 A. Raynell Andreychuk	Regina	Regina
3 Leonard J. Gustafson	Saskatchewan	Macoun
4 David Tkachuk	Saskatchewan	Saskatoon
5 John Wiebe	Saskatchewan	Swift Current
6		

## ALBERTA—6

THE HONOURABLE		
1 Daniel Phillip Hays, <i>Speaker</i>	Calgary	Calgary
2 Joyce Fairbairn, P.C.	Lethbridge	Lethbridge
3 Nicholas William Taylor	Sturgeon	Chestermere
4 Thelma J. Chalifoux	Alberta	Morinville
5 Douglas James Roche	Edmonton	Edmonton
6 Tommy Banks	Alberta	Edmonton

## SENATORS BY PROVINCE AND TERRITORY

## NEWFOUNDLAND—6

Senator	Designation	Post Office Address
THE HONOURABLE		
1 C. William Doody .....	Harbour Main-Bell Island ....	St. John's
2 Ethel Cochrane .....	Newfoundland .....	Port-au-Port
3 William H. Rompkey, P.C. ....	Labrador .....	North West River, Labrador
4 Joan Cook .....	Newfoundland .....	St. John's
5 George Furey .....	Newfoundland and Labrador .	St. John's
6 .....		

## NORTHWEST TERRITORIES—1

THE HONOURABLE		
1 Nick G. Sibbeston .....	Northwest Territories .....	Fort Simpson

## NUNAVUT—1

THE HONOURABLE		
1 Willie Adams .....	Nunavut .....	Rankin Inlet

## YUKON TERRITORY—1

THE HONOURABLE		
1 Ione Christensen .....	Yukon Territory .....	Whitehorse

## ALPHABETICAL LIST OF STANDING, SPECIAL AND JOINT COMMITTEES

(As of March 5, 2002)

\*Ex Officio Member

## ABORIGINAL PEOPLES

Chair: Honourable Senator Chalifoux

Deputy Chair: Honourable Senator Johnson

Honourable Senators:

Callbeck,	Chalifoux,	Johnson,	Pearson,
Carney,	Christensen,	Léger,	Sibbeston,
*Carstairs (or Robichaud),	Cochrane,	*Lynch-Staunton (or Kinsella),	St. Germain,
	Gill,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Carney, \*Carstairs (or Robichaud), Chalifoux, Christensen, Cochrane, Cordy, Gill, Johnson, \*Lynch-Staunton (or Kinsella), Pearson, Rompkey, Sibbeston, Tkachuk, Wilson.

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Deputy Chair: Honourable Senator Wiebe

Honourable Senators:

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*Carstairs (or Robichaud),	Gustafson,	Phalen,	Tunney,
	LeBreton,		Wiebe.

*Original Members as nominated by the Committee of Selection*

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Deputy Chair: Honourable Senator Tkachuk

Honourable Senators:

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	Gustafson,	Kroft,	Poulin,
Eyton,	Hervieux-Payette,	*Lynch-Staunton (or Kinsella),	Setlakwe,
Fitzpatrick,	Kelleher,		Tkachuk.

*Original Members as nominated by the Committee of Selection*

Angus, \*Carstairs (or Robichaud), Furey, Hervieux-Payette, Kelleher, Kolber, Kroft, \*Lynch-Staunton (or Kinsella), Meighen, Oliver, Poulin, Setlakwe, Tkachuk, Wiebe.



**ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES****Chair: Honourable Senator Taylor****Honourable Senators:**

Adams,  
Banks,  
Buchanan,  
\*Carstairs  
(or Robichaud),

Christensen,  
Cochrane,  
Eyton,  
Finnerty,

**Deputy Chair: Honourable Senator Spivak**

Kelleher,  
Kenny,  
\*Lynch-Staunton  
(or Kinsella),  
Sibbeston,  
Spivak,  
Taylor.

***Original Members as nominated by the Committee of Selection***

*Banks, Buchanan, \*Carstairs (or Robichaud), Christensen, Cochrane, Eyton, Finnerty, Kelleher, Kenny, \*Lynch-Staunton (or Kinsella), Sibbeston, Spivak, Taylor, Watt.*

---

**FISHERIES****Chair: Honourable Senator Comeau****Honourable Senators:**

Adams,  
\*Carstairs  
(or Robichaud),  
Comeau,

Cook,  
Gill,  
Jaffer,  
Johnson,

**Deputy Chair: Honourable Senator Cook**

\*Lynch-Staunton  
(or Kinsella),  
Mahovlich,  
Meighen,  
Phalen,  
Robertson,  
Tunney,  
Watt.

***Original Members as nominated by the Committee of Selection***

*Adams, Callbeck, \*Carstairs (or Robichaud), Carney, Chalifoux, Comeau, Cook, \*Lynch-Staunton (or Kinsella), Mahovlich, Meighen, Molgat, Moore, Robertson, Watt.*

---

**FOREIGN AFFAIRS****Chair: Honourable Senator Stollery****Honourable Senators:**

Andreychuk,  
Austin,  
Bolduc,  
Carney,

\*Carstairs  
(or Robichaud),  
Corbin,  
De Bané,

**Deputy Chair: Honourable Senator Andreychuk**

Di Nino,  
Grafstein,  
Graham,  
Losier-Cool,  
\*Lynch-Staunton  
(or Kinsella),  
Setlakwe,  
Stollery.

***Original Members as nominated by the Committee of Selection***

*Andreychuk, Austin, Bolduc, Carney, \*Carstairs (or Robichaud), Corbin, De Bané, Di Nino, Grafstein, Graham, Losier-Cool, \*Lynch-Staunton (or Kinsella), Poulin, Stollery.*

---

## HUMAN RIGHTS

Chair: Honourable Senator Andreychuk

Deputy Chair: Honourable Senator Fraser

Honourable Senators:

Andreychuk,	Cochrane,	Jaffer,	Poy,
Beaudoin,	Ferretti Barth,	Kinsella,	Wilson.
*Carstairs (or Robichaud),	Fraser,	*Lynch-Staunton (or Kinsella),	

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Beaudoin, \*Carstairs (or Robichaud), Ferretti Barth, Finestone,  
Kinsella, \*Lynch-Staunton (or Kinsella), Oliver, Poy, Watt, Wilson.*

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## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

Chair: Honourable Senator Kroft

Deputy Chair: Honourable Senator

Honourable Senators:

Atkins,	De Bané,	Kenny,	Milne,
Austin,	Doody,	Kroft,	Murray,
*Carstairs (or Robichaud),	Forrestall,	*Lynch-Staunton (or Kinsella),	Poulin,
Comeau,	Furey,	Maheu,	Stollery.
	Gauthier,		

*Original Members as nominated by the Committee of Selection*

*Austin, \*Carstairs (or Robichaud), Comeau, De Bané, DeWare, Doody, Forrestall, Furey, Gauthier,  
Kenny, Kroft, \*Lynch-Staunton (or Kinsella), Maheu, Milne, Murray, Poulin, Stollery.*

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Deputy Chair: Honourable Senator Beaudoin

Honourable Senators:

Andreychuk,	*Carstairs (or Robichaud),	Joyal,	Moore,
Beaudoin,		*Lynch-Staunton (or Kinsella),	Nolin,
Bryden,	Cools,		Pearson,
Buchanan,	Fraser,	Milne,	Rivest.

*Original Members as nominated by the Committee of Selection*

*Andreychuk, Atkins, Beaudoin, Buchanan, \*Carstairs (or Robichaud), Cools, Fraser, Grafstein,  
Joyal, \*Lynch-Staunton (or Kinsella), Milne, Moore, Nolin, Pearson.*

---

**LIBRARY OF PARLIAMENT (Joint)**

**Chair: Honourable Senator Bryden**  
**Honourable Senators:**

Beaudoin,  
 Bryden,

Cordy,

**Deputy Chair:**

Oliver,

Poy.

*Original Members agreed to by Motion of the Senate*  
*Beaudoin, Bryden, Cordy, Oliver, Poy.*

---

**NATIONAL FINANCE**

**Chair: Honourable Senator Murray**  
**Honourable Senators:**

Banks,  
 Bolduc,  
 \*Carstairs  
 (or Robichaud),

Cools,  
 De Bané,  
 Doody,  
 Finnerty,

**Deputy Chair: Honourable Senator Finnerty**

Furey,  
 Kinsella,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Mahovlich,  
 Murray,  
 Stratton,  
 Tunney.

*Original Members as nominated by the Committee of Selection*  
*Bolduc, \*Carstairs (or Robichaud), Cools, Doody, Finnerty, Ferretti Barth, Hervieux-Payette,*  
*Kinsella, Kirby, \*Lynch-Staunton (or Kinsella), Mahovlich, Murray, Stratton.*

---

**NATIONAL SECURITY AND DEFENCE**

**Chair: Honourable Senator Kenny**  
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Atkins,  
 Banks,  
 \*Carstairs  
 (or Robichaud),

Cordy,  
 Day,  
 Forrestall,

**Deputy Chair: Honourable Senator Forrestall**

Kenny,  
 LaPierre,  
 \*Lynch-Staunton  
 (or Kinsella),  
 Meighen,  
 Wiebe.

*Original Members as nominated by the Committee of Selection*  
*Atkins, \*Carstairs (or Robichaud), Cordy, Forrestall, Hubley, Kenny,*  
*\*Lynch-Staunton (or Kinsella), Meighen, Pépin, Rompkey, Wiebe.*

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## VETERANS AFFAIRS

(Subcommittee of National Security and Defence)

Chair: Honourable Senator Meighen  
Honourable Senators:

Deputy Chair: Honourable Senator Wiebe

Atkins,	Day,	*Lynch-Staunton (or Kinsella),	Meighen,
*Carstairs (or Robichaud),	Kenny,		Wiebe.

## OFFICIAL LANGUAGES (Joint)

Chair: Honourable Senator Maheu  
Honourable Senators:

Deputy Chair:

Beaudoin,	Gauthier,	Maheu,	Setlakwe.
	Léger,	Rivest,	

*Original Members agreed to by Motion of the Senate**Bacon, Beaudoin, Fraser, Gauthier, Losier-Cool, Maheu, Rivest, Setlakwe, Simard.*

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

Chair: Honourable Senator Austin  
Honourable Senators:

Deputy Chair: Honourable Senator Stratton

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Austin,	Gauthier,		Poulin,
*Carstairs (or Robichaud),	Joyal,	Maheu,	Robertson,
	Losier-Cool,	Milne,	Rossiter,
Day,		Murray,	Stratton.

*Original Members as nominated by the Committee of Selection**Andreychuk, Austin, Bryden, \*Carstairs (or Robichaud), DeWare, Di Nino, Gauthier, Grafstein, Hervieux-Payette, Joyal, Kroft, Losier-Cool, \*Lynch-Staunton (or Kinsella), Murray, Poulin, Rossiter, Stratton.*

### SCRUTINY OF REGULATIONS (Joint)

**Chair: Honourable Senator Hervieux-Payette**

**Deputy Chair:**

**Honourable Senators:**

Bryden,	Jaffer,	Kinsella,	Moore.
Hervieux-Payette,		LaPointe,	

*Original Members agreed to by Motion of the Senate*

*Bacon, Bryden, Finestone, Hervieux-Payette, Kinsella, Moore, Nolin.*

---

### SELECTION

**Chair: Honourable Senator Rompkey**

**Deputy Chair: Honourable Senator Stratton**

**Honourable Senators:**

Austin,	Corbin,	Kinsella,	Robertson,
*Carstairs	Fairbairn,	LeBreton,	Rompkey,
(or Robichaud),	Graham,	*Lynch-Staunton	Stratton.
		(or Kinsella),	

*Original Members agreed to by Motion of the Senate*

*Austin, \*Carstairs (or Robichaud), Corbin, DeWare, Fairbairn, Graham, Kinsella  
LeBreton, \*Lynch-Staunton (or Kinsella), Mercier, Murray.*

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### SOCIAL AFFAIRS, SCIENCE AND TECHNOLOGY

**Chair: Honourable Senator Kirby**

**Deputy Chair: Honourable Senator LeBreton**

**Honourable Senators:**

Callbeck,	Cordy,	Kirby,	Morin,
*Carstairs	Di Nino,	LeBreton,	Pépin,
(or Robichaud),	Fairbairn,	*Lynch-Staunton	Roberston,
Cook,	Keon,	(or Kinsella),	Roche.

*Original Members as nominated by the Committee of Selection*

*Callbeck, \*Carstairs (or Robichaud), Cohen, Cook, Cordy, Fairbairn, Graham, Johnson,  
Kirby, LeBreton, \*Lynch-Staunton (or Kinsella), Pépin, Robertson, Roche.*

---

**ON THE PRESERVATION AND  
PROMOTION OF A SENSE OF CANADIAN COMMUNITY**

(Subcommittee of Social Affairs, Science and Technology)

**Chair: Honourable Senator  
Honourable Senators:**

\*Carstairs  
(or Robichaud),

Cook,  
Cordy,

**Deputy Chair: Honourable Senator**

Kirby,  
LeBreton,

\*Lynch-Staunton  
(or Kinsella),  
Roberston.

---

**TRANSPORT AND COMMUNICATIONS**

**Chair: Honourable Senator Bacon  
Honourable Senators:**

Adams,  
Bacon,  
Biron,  
Callbeck,

\*Carstairs  
(or Robichaud),  
Eyton,  
Forrestall,  
Gustafson,

**Deputy Chair: Honourable Senator Oliver**

Jaffer,  
LaPierre,  
\*Lynch-Staunton  
(or Kinsella),

Oliver,  
Phalen,  
Taylor.

*Original Members as nominated by the Committee of Selection*

*Adams, Angus, Bacon, Callbeck, \*Carstairs (or Robichaud), Christensen, Eyton, Finestone,  
Fitzpatrick, Forrestall, \*Lynch-Staunton (or Kinsella), Rompkey, Setlakwe, Spivak.*

---

**THE SPECIAL SENATE COMMITTEE ON ILLEGAL DRUGS**

**Chair: Honourable Senator Nolin  
Honourable Senators:**

Banks,  
\*Carstairs  
(or Robichaud),

Kenny,  
\*Lynch-Staunton  
(or Kinsella),

**Deputy Chair: Honourable Senator Kenny**

Maheu,  
Nolin,

Rossiter.

*Original Members as agreed to by Motion of the Senate*

*Banks, \*Carstairs (or Robichaud), Kenny, \*Lynch-Staunton (or Kinsella), Maheu, Nolin, Rossiter.*

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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 93

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OFFICIAL REPORT  
(HANSARD)

Wednesday, March 6, 2002

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*



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## THE SENATE

Wednesday, March 6, 2002

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### NINETEENTH JUNIOR YUKON QUEST

CONGRATULATIONS TO WINNER HANS GATT

**Hon. Ione Christensen:** Honourable senators, on February 24, 2002, I had the pleasure of participating in the nineteenth Junior Yukon Quest Awards Banquet. Honourable senators may have heard of the Alaskan Iditarod Sled Dog Race, but when it comes to separating the dogs from the pups, the 1,000-mile Yukon Quest is the yardstick by which such races are measured.

The Yukon Quest is run each year in February and this was its nineteenth year. The race follows a course from Whitehorse, Yukon, to Fairbanks, Alaska, following the Yukon River Valley. The race starts are alternated between the two cities.

What sets the Yukon Quest apart is the emphasis on endurance. The race is patterned on the old-time working freight teams, as compared to just speed. There are two major mountain ranges to pass. The temperatures run from minus 50 to plus 10 degrees. The weather is always unpredictable with snow, wind, bare rocks, river overflow and sudden chinooks. Each team must carry all of their supplies and equipment, with only two stops where mushers can have handlers assist them with the feeding and care of their dog teams. The teams will often run from 24 to 48 hours without a rest.

At the half-way point of Dawson City, there is a mandatory 38-hour layover. There are vets along the way checking and monitoring the condition of the dogs. The race usually takes 10 days to complete.

Of the 41 teams entered in this year's race, 27 finished. Each team starts with fourteen dogs and must complete the race with at least six, and those that are dropped are picked up by handlers and brought home.

While most of the mushers are Alaskans, this year's winner was Hans Gatt from Atlin, British Columbia, who took home U.S. \$30,000. While that may sound like a large amount, when one has to feed 30 to 40 dogs all year, that amount does not go a long way.

As if the Yukon Quest was not enough, Hans entered the Iditarod race last week. In checking his standing today, he is thirty-first in a field of 64, which means, he still, perhaps, could win that race. Two 1,000-mile races in less than a month is really taking fitness to the extreme.

### HERITAGE

NATIONAL LIBRARY—DESTRUCTION OF ARCHIVED MATERIAL  
DUE TO INADEQUATE FACILITIES

**Hon. Eymard G. Corbin:** Honourable senators will recall that, in December, I raised the issue of the loss of documents in the National Library of Canada as a result of faulty equipment and other causes. Since I raised that issue, two other major incidents have unfortunately caused further damage to the national collection of precious archives.

There was a fire on February 6, 2002, in the building at 149 Bentley Avenue in Ottawa, and one of the most important collections in the world of newspapers was damaged.

The most recent event occurred last night in the main building of the National Archives. It would be more appropriate for me at this stage to read the press release of March 6, 2002:

Today at approximately 2:00 a.m., the National Library was once again the victim of a major flood, causing thousands of dollars worth of damage. Hundreds of irreplaceable documents, stored in two basement levels in the Library's Wellington Street location, were affected.

The press release continued:

"It is tragic that, again, our published heritage was harmed. I am grateful for the efficiency and experience of the National Library staff, who are now experts at flood damage control," said Mr. Roch Carrier, National Librarian. "This is the 72nd incident to occur in the last 10 years. When will the next one be?"

Honourable senators, I do not know how to express my disappointment at the lack of governmental action to remedy this situation. I have obtained written answers to the questions I posed to the Leader of the Government in the Senate. I found that response unsatisfactory. Yet, we are proceeding with the erection of glorious, glass-encased buildings at a cost of tens of millions of dollars when we should be focused on the preservation of our national heritage.

## SITUATION IN ISRAEL

**Hon. Jack Austin:** Honourable senators, as we are well aware, the President of Israel, Moshe Katsav, is in Ottawa today. As the formal head of the state of Israel, he is the guest of Canada's Governor General, the Right Honourable Adrienne Clarkson. This evening, President Katsav and Prime Minister Jean Chrétien are speakers at a community dinner in Ottawa, hosted by the Canada-Israel Committee.

To quote from the background briefing material supplied by the Department of Foreign Affairs and International Trade:

Canada has been a strong supporter and a loyal friend of Israel since its creation in 1948. Israel's right to security, its well-being, and its right to live at peace with its neighbours are fundamental tenets of Canadian policy.

From a primitive agriculture economy in 1948, Israel has become a highly sophisticated and developed economy, with particular skills in agriculture, pharmaceuticals and information technologies.

The Canada-Israel Free Trade Agreement came into effect in 1997 and since inception has doubled to \$950 million in two-way trade as of 2001. Canadian investment in Israel stands at over \$1 billion, focused primarily on the high-tech sector.

Regrettably, violence is a major feature in Israel's national life and in the lives of the Palestinian people. Every newscast and newspaper recounts the horrors that take place, that are causing gruesome deaths on both sides.

• (1340)

Quoting again from the background material:

Canada fully supports the creation of an independent and viable Palestinian state. It is Canada's view, however, that it is in the best interests of all concerned for such a state to emerge through negotiations.

Again regrettably, there are no negotiations taking place. Eighteen months after the unleashing of the current Intifada, the violence is at an all-time high. To quote Israel's Minister of Justice, Meir Sheetrit, "They escalate so we escalate harder."

It is a truth that neither side is willing to be first in de-escalating violence because it would then appear to be the weaker side and lose its credibility with their supporters and with their opponents. The march of folly appears to move on and on.

There is pressure from many quarters for the United States or Europe to intervene, thereby allowing the Israelis and Palestinians an opportunity to change tactics on the basis of that intervention. So far, the United States does not see any likely behavioural change from its possible intervention. To encourage the United States, the Crown Prince of Saudi Arabia has made a general comment to the *New York Times* regarding a peace initiative.

Later this month, United States Vice President Cheney will visit the Middle East. His talks with the Saudis and others will be followed by an important Arab League summit. For the sake of human progress toward decency, social justice and peace and security for all persons, let us wish the peacemakers well.

[Translation]

## IRAQ

### PHASE II IN WAR AGAINST TERRORISM

**Hon. Marcel Prud'homme:** Honourable senators, will Canada be involved militarily in what is commonly termed Phase II of "the war against terrorism", making Iraq the next theatre of war? For several weeks, the George Bush administration has been hinting at the possibility of air strikes on Baghdad. During an official visit to Moscow, however, Prime Minister Jean Chrétien has stated that Canada distances itself from Washington's policies.

Ottawa does not look favourably on Washington's crusade against Iraq, Iran and North Korea, described by the Bush administration as the "axis of evil". Chrétien's statements clearly irritated the White House, as was made clear by Condoleezza Rice. Dr. Rice, National Security Advisor to President Bush, wasted no time requesting a clarification of the Canadian position from the PMO. Nevertheless, in speaking out against "unilateral action" by the U.S., the Prime Minister has again made it clear that the Iraq question should be resolved within the framework of the UN.

To what avail? U.S. President George Bush has indicated that such an operation could be launched by Washington without consulting the international community. This proves two things, if not more. First, that contrary to expectations after the events of September 11, the arrogance of American might remains unshakable, in that the absolutist approach of the Bush administration to world affairs constitutes an invariable. The reservations expressed by the Europeans, Russians, Chinese, even the Canadians, in connection with the bombing of Iraq cannot bring the Americans to negotiate a solution to the Iraq problem within a multilateral diplomatic framework. If Washington's threats materialize, the Americans will likely move on to Phase II of "the war against terrorism", without taking the reservations of its friends or allies into account. Moreover, the American's more militaristic approach tends to mask the true political issues involved.

Security is without a doubt a fundamental aspect of stability around the world. However, is military power the only foundation for security? Certainly, the fact that the United States is the only country capable of waging war 7,000 kilometres away denotes its military supremacy. However, military supremacy is not everything. Let us not forget that history abounds with examples of great armies that have been forced to beat a retreat. The war against terrorism demands that we take real political action in the various conflicts around the world, and particularly in the Middle East, a region that is a powder keg.



There is a role for our country in the resolution of this conflict. Will we fulfil this role? Remember that, in 1956, Lester B. Pearson steered Canada's diplomatic role in a remarkable direction, one that resolved the Suez Canal conflict, in which England, France and Israel were in dispute with Egypt. This earned Pearson the Nobel Peace Prize the following year. Could Canada undertake this type of diplomatic mission now? It is our duty to take this approach. The Prime Minister has expressed his reticence about President George W. Bush's intentions to treat Iraq as it has Afghanistan. Will Canada change its position to suit the will of the U.S.? Let us hope not.

[English]

### AUCTION OF BALLOT FOR LEADERSHIP OF CANADIAN ALLIANCE PARTY

**Hon. Lorna Milne:** Honourable senators, I rise this afternoon to provide some important confidential information to senators, particularly those on the other side of the aisle, on a great opportunity they have unfortunately missed.

Yesterday afternoon, a chance to be part of Canadian history was being auctioned off on eBay. Anyone had the opportunity to bid to obtain one ballot for the Canadian Alliance leadership race. Late yesterday afternoon, it would have cost a mere \$16 to obtain a ballot, without becoming a member of the Canadian Alliance. I am sure that there are many senators on the other side who would have loved to participate in this demonstration of grassroots democracy.

The auction was supposed to last for one week, but alas, it now appears that bidding on item 1711198730 has been halted. I am quite sure, honourable senators, that that is because of a lack of interest.

### NATIONAL DEFENCE

#### AFGHANISTAN—TAKING OF PRISONERS—BRIEFINGS OF MINISTER

**Hon. Laurier L. LaPierre:** Honourable senators, I rise today to remind honourable senators that the Minister of National Defence, the Honourable Art Eggleton, has served in that capacity since 1997. He is, in fact, the second longest serving minister since Brook Claxton, who occupied the post from 1946 to 1954.

In 1997, the Department of National Defence was a dysfunctional department reeling from the damage to public trust resulting from the Somalia affair, errant videotapes and a vocal community calling for the continued degradation of the Canadian Forces. Since that time, the Honourable Art Eggleton has brought about the most important and major institutional reform that has

contributed immensely to the re-establishment of that public trust.

His accomplishments — the steady increase in the budget of the department, important quality-of-life initiatives, reform of military justice and policing among others — are a matter of record.

However, in spite of that record and without any one outside of the circle having been privy to the content and the quality of the briefings the minister received over the sorry affair of the prisoners in Afghanistan, we accept without reserve the testimony of generals and admirals — testimony that is recognized by almost everyone as self serving.

Over the years, for my long list of sins, I have interviewed or been briefed by generals and admirals, especially when I served on the Minister's monitoring committee after Somalia, and must tell you that in many encounters I have found a good many generals and admirals adept at manufacturing the truth — without lying, of course — as well as lacking in appreciation of the importance of transparency and openness in a democracy.

I am not surprised, therefore, that it took many briefings for all the necessary information to be pried out of the generals and admirals and conveyed to the minister.

Finally, it would be well for Canada if the generals and admirals remembered that Canada is not a banana republic.

### BRITISH COLUMBIA

#### FIRST PROVINCIAL CONGRESS

**Hon. Edward M. Lawson:** Honourable senators, I had the privilege last week, with many others, to attend the first historic provincial congress in British Columbia, called by Premier Campbell. He had in attendance all the members of his government, including backbenchers and the entire cabinet and opposition members. He invited B.C. federal members of Parliament from the House of Commons and the Senate. The mayors of the 15 largest cities were in attendance along with representatives of the Aboriginal nations and a number of experts. It was an opportunity to deal, on a non-partisan basis, with problems affecting British Columbia and, surprisingly, it was the near unanimous consensus of the group that it was an unqualified success.

Members of the Senate, including Senators Austin, Carney and St. Germain and others, distinguished themselves by making outstanding constructive contributions to the Congress. They dealt with softwood lumber, infrastructure, transportation and medicare. At the premier's request, Senator Austin led the discussion on softwood lumber.

[ Senator Prud'homme ]



All agreed that the expert presentation we received on medicare was the finest ever in terms of clarity and understanding. Mr. David Baxter, Executive Director of Urban Futures, spoke for about 45 minutes on the various issues affecting medicare, the causes of the problems currently being encountered and how we can deal with them in the future. I recommend that Senator Kirby make the next meeting of his committee on the study of health care a Committee of the Whole, and invite Mr. Baxter as the witness to make his presentation to this chamber.

The provincial congress is to be an annual affair in British Columbia. I recommend such a congress to the premiers of provinces that have not held one.

• (1350)

## ROUTINE PROCEEDINGS

### ASIA-PACIFIC PARLIAMENTARY FORUM

#### TENTH ANNUAL MEETING— REPORT OF CANADIAN DELEGATION TABLED

**Hon. Jack Austin:** Honourable senators, I have the honour to table, in both official languages, the report of the Canadian delegation to the tenth annual meeting of the Asia-Pacific Parliamentary Forum, held in Honolulu, Hawaii, January 6 to 9, 2002.

## QUESTION PERIOD

### NATIONAL SECURITY AND DEFENCE

#### REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

**Hon. W. David Angus:** Honourable senators, my question today has to do with the report entitled "Canadian Security and Military Preparedness," which was tabled here last week by our colleagues from the Standing Senate Committee on National Security and Defence.

It is obvious, from reading the report, that many senators in this chamber are very concerned about certain issues relating to national security. I understand from the national media, and from my own contacts, that Canadians are very concerned and confused. The report says, *inter alia*, that the major ports of this great nation are riddled with organized crime; that the patent lack of security in these ports has created a hotbed for the passage of

contraband goods and is generally creating a status of insecurity.

We have heard for months — indeed, for years — from our excellent neighbour to the south, that Canadian ports are literally a sieve. Matters of security in our ports have come to the fore as a result of the tragic events of September 11 and are being scrutinized. Yet, confusion is created, for example, by statements from our Prime Minister, who was reported widely in the media this week as saying that the ports are secure and everything is fine. Indeed, the highly respected Dominic Taddeo, the CEO of the Port of Montreal, says everything is fine and dandy and tickety-boo. Well, what is the situation?

What does the government intend to do with this report? Where will it go? Will the government address its recommendations?

I refer in particular to Recommendation No. 8 on page 129 of the report.

The committee recommends that a public inquiry, under the *Inquiries Act* into significant ports be established as soon as possible, with a mandate that will include...

Will the government convene such a public inquiry without delay?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the Honourable Senator Angus for his question in the chamber this afternoon. As he may be aware, members of the Senate received the report only yesterday afternoon. Members of the government, I assume, have only also received their copies within a matter of the last 24 hours.

However, I do have the assurance from the Ministers of Defence and Transport that their departments will review the report and, most particularly, the recommendations, although no decisions on those recommendations have been taken at this time.

**Senator Angus:** Honourable senators, that is all fine and dandy. However, I was just reading the *Calgary Sun*, as I do religiously every day, out of respect to my colleagues from the great province of Alberta. I noticed, on page 4, today, that the Chairman of the Standing Senate Committee on National Security and Defence, the Honourable Senator Kenny, fears that this vital report could wind up in the big black hole where so many vital reports wind up. In consequence, he is taking his one-man show across Canada to stimulate, according to the newspaper, a debate in this country on the issues raised therein.

I ask again: Will this report end up in the big black hole or will it get urgent attention? The free flow of goods in international trade between Canada and the U.S. is at stake because the very security we are all fighting to enhance and improve has apparently fallen down right in front of us in our ports.

**Senator Carstairs:** Honourable senators, there is such a thing as process. The Senate chamber has not yet approved this report. I suspect we have not approved the report because most of us have not yet read the report. We only received it at about this time yesterday.

Give it some time, Senator Angus, before you make accusations that the report is falling into a big black hole. Right now it is in the big Red Chamber.

## CHURCH COMMUNITY

### FINANCIAL SUPPORT FOR SETTLEMENT OF LAWSUITS BY FORMER STUDENTS OF RESIDENTIAL SCHOOLS

**Hon. Douglas Roche:** Honourable senators, I have a question for the Leader of the Government in the Senate. I want to return to a subject that I raised some time ago; namely, the residential schools litigation issue. I felt, at that time, that the minister was sympathetic to the point I was making, that this issue requires a reconciliation model, rather than litigation, in order to effect the human healing of all those persons concerned.

Honourable senators, since we last discussed this matter, what do we have? What I call "Ottawa permanence" has settled in. A bureaucracy with some \$53 million has now been set up. Only \$20 million of that \$53 million is devoted to settling the claims. We have 72 lawyers. We have \$11 million for their salaries. We have another \$13 million to \$14 million for ongoing research to deal with this file of 9,000 claims.

Just before he left the ministry, Mr. Gray made what the churches regarded as a take-it-or-leave-it offer, in which the federal government would agree to pay 70 per cent of the claims that were settled, meaning that the churches would have to pay 30 per cent. This offer had a paralyzing effect on the discussions — I will not even call them negotiations — that had taken place to that point. Nothing is happening now. Meanwhile, the churches have paid up to \$15 million to \$20 million for lawyers alone. That is before there has been a resolution or the human resolution required on this file. Now we have Mr. Manley, to whom I pay my respects, handling this file.

Would the minister bring to Mr. Manley's attention that this kind of Ottawa permanence in dealing with such a volatile issue is not the answer; rather, focusing on the construction of a reconciliation agreement that would not only include, but go beyond financial compensation to effect human healing, is the way to go, which will require leadership by the government, in particular Mr. Manley.

• (1400)

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank Senator Roche for his question, but

he does not understand the file in the same way that I understand the file. I agree that reconciliation is an essential part of any settlement agreement with our Aboriginal people, and I do wish to see the settlement of these claims. We have learned, and his statistics quite clearly prove, that the claims have become highly tangled in the process of many lawyers, of courts, and much delayed action.

The proposition put forward by the federal government is that it is prepared to move, to settle out of court and to recognize the payment of 70 per cent of the agreed-upon compensation to the victims, as a result of arbitration hearings. This will go a long way in keeping many of these claims from prolonged action before the courts of this country.

**Senator Roche:** Honourable senators, I only can refer to my central point again. Mr. Manley is in the position to inject a fresh look at this file, that has now achieved a kind of permanence in the federal system. Specifically, is the 70/30 per cent split fixed or is it subject and open to negotiation?

**Senator Carstairs:** Honourable senators, the Government of Canada has offered 70 per cent of the agreed-upon compensation to victims. It has also agreed to continue its discussion with church groups. It is my understanding that the church groups are no longer willing to participate in such discussions and negotiations.

## HERITAGE

### NATIONAL LIBRARY—DESTRUCTION OF ARCHIVED MATERIAL DUE TO INADEQUATE FACILITIES

**Hon. Eymard G. Corbin:** Honourable senators, my question is for the Leader of the Government in the Senate, who may anticipate what that will be. It concerns the National Library archival collections that are in great danger of further damage following, for example, the fire in the newspaper collection earlier this year. Flooding occurred last night, which has put a number of valuable collections at risk.

Honourable senators, I have been around this place long enough to know that things happen if ministers want them to happen. Fortunately, there is now a new minister for Public Works and Government Services Canada. Would the Leader of the Government in the Senate vigorously pursue this issue with the Honourable Don Boudria and ask him to focus on this issue as a priority matter? I know that Minister Boudria has other priorities, but he is an Ottawa-area minister. He should have — and I am sure that he has an interest, political and otherwise — a responsibility to see to the preservation of our precious National Library archival collections. The honourable leader is a person of courage and vigour, and I ask her today to bring this issue to the forefront with the new minister.



**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Senator Corbin raises an extremely important issue before the chamber this afternoon. It is all too often that the government focuses on what I like to refer to as "edifice complexes," which are the bricks and mortars with which we built this nation. It is more important to focus on our lasting heritage of such things as books, documents and other items, the loss of which could mean the loss of a sense of ourselves as a nation. I will not only raise this matter through the normal channels, but I will raise it specifically with Minister Boudria by letter. I promise the honourable senator that this letter will be sent before the end of this week.

## NATIONAL SECURITY AND DEFENCE

### REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

**Hon. Ethel Cochrane:** Honourable senators, my question is for the Leader of the Government in the Senate. It reflects the concerns that Senator Angus has in respect to the report of the Standing Senate Committee on National Security and Defence. My question is also the result of concerns expressed by the people in my province, in response to an interview that Senator Kenny had on Friday with the media and to the concerns that he raised regarding security of the ports.

I can appreciate that the honourable leader has not had the opportunity to review the report. However, in the process of doing so, I ask that she please give the public some sense and some peace of mind in respect to this issue. Give this not only to Canadians but to our American neighbours, who are also concerned that our ports not pose a risk to security, which is key to our safety and to the safety of everyone.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, we should have a vigorous discussion of this report in this chamber, quite frankly. In addition to the information that the members of the committee have provided, I am sure that additional information could be provided by members of this chamber. I would bring both forward to the government.

As I indicated to Senator Angus, the government has undertaken to read this report thoroughly and to study it. As soon as there is information forthcoming from that report, I am certain that it will be made available to all honourable senators.

**Senator Cochrane:** Honourable senators, when the honourable leader provides the information on the report, could she also provide the information regarding the last budget, in which \$60 million was pledged to improve port security? We should like to know if this money is being used for the reinstatement of our port police across the country.

**Senator Carstairs:** Honourable senators, the answer to that question is simple. There has been no suggestion by any port

authority or by the government that that is the route they want to take. There has been considerable discussion about the need for additional port security. Thus, that money has been allocated for that use.

## AGRICULTURE AND AGRI-FOOD

### DOWNTURN IN INDUSTRY—GOVERNMENT SUPPORT

**Hon. Leonard J. Gustafson:** Honourable senators, my question is for the Leader of the Government in the Senate. Farmers are probably, in some cases, less than one month away from planting. The minister had indicated some time ago that there would be a program of safety nets in place. Nothing has happened, and it looks as though nothing will happen. I called to speak to farmers today; they have lost faith in the federal government. Incidentally, Mr. Martin is speaking to the Association of Rural Municipalities tomorrow.

At Redvers, Saskatchewan, four quarters of land sold for \$28,000 per quarter yesterday by auction, one quarter for \$24,000 by auction, and that same land across the border, in the U.S., would sell for U.S. \$100,000. Yet, this land sold for Can. \$24,000. That equates about U.S. \$16,000. We have books of auction sales and they are full.

Honourable senators, who is buying the machinery? Canadian farmers have bought John Deere tractors from the Americans at American prices. The American farmers are coming here so that they can buy that good machinery at these auction sales and take it back across the border. With their dollar, they can buy so much.

Honourable senators, will we let the Americans buy out Canada? The Canadian dollar is not worth anything compared to their dollar that can buy up so much here. Will the government take action on a truly serious national situation that they have done nothing about in the last four years?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I will disassociate myself with the last statement because there has been considerable advance made on this file in the last four years.

In respect of the senator's concerns for the farmers, he is aware that there have been a number of federal-provincial meetings and there were additional meetings in January.

• (1410)

They are working toward a national strategy, but a national strategy in agriculture always involves both the provinces and the territories and the federal government. It is never a unilateral program of the federal government, and I do not think that the farmers of this country would want it to be a unilateral program.



**Senator Gustafson:** Honourable senators, let us be honest about the situation. The Prime Minister has a group studying the situation. The Standing Senate Committee on Agriculture and Forestry has been across the country studying the situation. It has been studied to death. We need action. If there is not to be any action, then tell us that. At least we will know what to do. Do our farmers put up the for sale sign, or do we continue to have some faith in this government?

There was a time, and it will come again, when the production of food was very important to this nation. Somehow the Americans know that; the Europeans know that, but we in Canada do not understand that.

**Senator Carstairs:** Honourable senators, the people of Canada do understand that, and they do value the food that is produced in this country. There is no question that the federal and provincial governments have been putting programs forward. In this year, a record of up to \$3.7 billion will be paid out through farm income programs. Quite frankly, I would like to see, as would every one in the country, far better prices for the commodities that are being raised from one end of this country to the other.

However, no one can fault either the provincial agriculture ministers or the federal agriculture minister for trying hard to come forward with a concerted effort and program that is suitable and acceptable to provincial, territorial and federal governments.

**Hon. Terry Stratton:** Honourable senators, from what I understand, Western Canada has lost approximately 36 per cent of its farmers over the last two years. I am not saying that this crisis is unique to Canada. A reduction in the number of farmers is happening in the United States, and it is happening across the developed world.

However, to lose 36 per cent of the number of farmers is staggering, and it is scary. I know that the Leader of the Government in the Senate was out West this weekend and saw the conditions there. The West is a virtual dust bowl now. There is no snow. The wind is blowing. It is desert dry. The forecasts for the summer are not good. In other words, we could be in for a serious drought again. It is like a snowball that grows larger and larger.

Unfortunately, farmers are taking the attitude that the government seems to have abandoned them. The Leader of the Government may, of course, disagree with that, but they feel that the government has virtually abandoned them and is letting nature take its course. In other words, the government is allowing a winnowing out process of farmers to take place, as shown by the 36 per cent reduction. We lost the poor farmers a while ago; now we are losing the good ones. That is the frightening situation.

Honourable senators, I know that the government will try its hardest, but we must have something more than meetings and studies. I reinforce what Senator Gustafson has said. The government must come up with something.

There was an article in *The Globe and Mail* on the weekend that talked about towns virtually disappearing in Saskatchewan not merely by the ones or tens. The forecast is that we will lose these towns by the hundreds. They are disappearing. The population of that province is under threat of diminishing substantially. That is frightening, and we need to have a response to that trend.

**Senator Carstairs:** Honourable senators, the provincial and federal agriculture ministers together are working on exactly that response. The statistics to which the honourable senator refers to is in respect to full time farmers, not all farmers. That is significant. Not all of these people have left the land.

However, the weather conditions do concern me. From the air I have seen the ground in the Province of Manitoba. More recently, having taken a low-altitude flight from Calgary to Medicine Hat, I saw absolutely no snow, none whatsoever. I saw brown barren fields, the kind of fields that one would normally see in November, not at this time of year.

Honourable senators, these weather conditions give me grave concern for not only farming and the cattle, but for the people who live in these communities, because clearly we are going to have ground water problems.

I do not want to diminish what either Senator Gustafson or Senator Stratton have said this afternoon. There are serious problems. Those problems need to be addressed, and I will continue to support the federal minister of agriculture in coming to some viable solutions.

**Senator Stratton:** Thank you.

[Translation]

## JUSTICE

### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—COSTS TO GOVERNMENT

**Hon. Jean-Robert Gauthier:** Honourable senators, yesterday, a delayed response was tabled to a question that I had asked on February 5 regarding the maintenance of linguistic rights and contraventions. It is a fairly urgent problem. Did Senator Robichaud table his response on behalf of the government? If so, why was this not indicated in the response? It says "we", but it does not say who says "yes" or "no".

[English]

**Hon. Sharon Carstairs (Leader of the Government):**  
Honourable senators, when I take a delayed answer, it is a question that has been asked of the government; and it is assumed that it is a response from the government.

[Translation]

## RESPONSE TO ORDER PAPER QUESTION TABLED

### STOCKPILING OF DRUGS

**Hon. Fernand Robichaud (Deputy Leader of the Government)** tabled the response to Question No. 19, raised on November 8, 2001 — by the Honourable Senator Kinsella.

• (1420)

## ORDERS OF THE DAY

### THE ESTIMATES, 2001-02

#### NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY SUPPLEMENTARY ESTIMATES (B)

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, 2002, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Supplementary Estimates (B) for the fiscal year ending March 31, 2002, with the exception of Parliament Vote 10b and Privy Council Vote 25b.

Motion agreed to.

#### VOTE 10B OF SUPPLEMENTARY ESTIMATES (B) REFERRED TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, 2002, moved:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10b of the Supplementary Estimates for the fiscal year ending March 31, 2002; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

#### VOTE 25B OF SUPPLEMENTARY ESTIMATES (B) REFERRED TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, 2002, moved:

That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 25b of the Supplementary Estimates (B) for the fiscal year ending March 31, 2002; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

### THE ESTIMATES, 2002-03

#### NATIONAL FINANCE COMMITTEE AUTHORIZED TO STUDY MAIN ESTIMATES

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, moved:

That the Standing Senate Committee on National Finance be authorized to examine and report upon the expenditures set out in the Estimates for the fiscal year ending March 31, 2003, with the exception of Parliament Vote 10 and Privy Council Vote 35.

Motion agreed to.

#### VOTE 10 REFERRED TO THE STANDING JOINT COMMITTEE ON THE LIBRARY OF PARLIAMENT

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, 2002, moved:

That the Standing Joint Committee on the Library of Parliament be authorized to examine the expenditures set out in Parliament Vote 10 of the Estimates for the fiscal year ending March 31, 2003; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

#### VOTE 35 REFERRED TO THE STANDING JOINT COMMITTEE ON OFFICIAL LANGUAGES

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice given March 5, moved:



That the Standing Joint Committee on Official Languages be authorized to examine the expenditures set out in Privy Council Vote 35 of the Estimates for the fiscal year ending March 31, 2003; and

That a message be sent to the House of Commons to acquaint that House accordingly.

Motion agreed to.

• (1420)

[English]

## ROYAL ASSENT BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the tenth report of the Standing Committee on Rules, Procedures and the Rights of Parliament (Bill S-34, respecting royal assent to bills passed by the Houses of Parliament) presented in the Senate on March 5, 2002.

**Hon. Jack Austin:** Honourable senators, I move the adoption of the report.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

**Hon. Anne C. Cools:** Honourable senators, has there been a mistake? It seems to me that we were waiting for the committee chairman to speak to the report before the question would be put. That is the proper way to proceed. It is a major and fundamental procedure of the Senate, and Senator Austin should have been permitted to speak before the question was put. It is very important.

**The Hon. the Speaker *pro tempore*:** I agree. It was my mistake to have the vote so quickly.

**Senator Cools:** Now that we have moved so quickly, how do we back up?

**The Hon. the Speaker *pro tempore*:** Is there unanimous consent that I let the senator speak?

**Senator Austin:** Honourable senators, I am happy to have the report adopted. I will speak at third reading.

**The Hon. the Speaker *pro tempore*:** The report is adopted.

**Senator Cools:** Honourable senators, this is a most interesting situation. Her Honour has just accepted responsibility and said

[ Senator Robichaud ]

that she moved too quickly. Is this particular question a debatable question?

We do not know what is in the report. Senator Austin may be happy with it, however you must admit the whole question is rather unusual and irregular. It seems to me that we have a right here to expect a speech and some debate on the report, and we should hear from the chairman.

**The Hon. the Speaker *pro tempore*:** Honourable senators, Senator Cools is right.

**Senator Cools:** Senators were trying to scramble to their feet. Somehow or other we must follow the right process.

**The Hon. the Speaker *pro tempore*:** It is the right of every senator to speak or not to speak. Senator Austin said he would speak at third reading now that it has been adopted.

**Senator Cools:** There is also the right of the Senate to hear him speak to the report.

**Senator Austin:** If the Senate...

**The Hon. the Speaker *pro tempore*:** Order please.

**Senator Cools:** We have a right to hear from the honourable senator on that report.

**The Hon. the Speaker *pro tempore*:** Does Senator Austin wish to speak? Do I have leave from the house that you may speak now?

**Senator Austin:** Honourable senators, I will speak now. My colleagues have asked me to speak at report stage, and I am glad to do so.

**The Hon. the Speaker *pro tempore*:** Honourable senators, if the honourable senator speaks now, I will call the vote on the adoption of the report after his speech.

**Senator Austin:** Honourable senators, you have before you the tenth report of the Standing Committee on Rules, Procedures and the Rights of Parliament dealing with the reference of the Senate to the committee of Bill S-34, relating to Royal Assent to bills passed by the Houses of Parliament.

The standing committee, in obedience to the Order of Reference of Thursday October 4, 2001, examined the bill and included in its examination a history of Royal Assent in other parliamentary jurisdictions: the United Kingdom, Australia and New Zealand.

The committee gave consideration to a process in this Parliament that began in 1983, when Senator Royce Frith introduced a motion asking the Senate to consider whether the procedure for Royal Assent could be amended to provide in certain circumstances for Royal Assent by written declaration.



As honourable senators know, the current generation of attempts to put this matter forward for consideration includes a private member's bill introduced by Senator John Lynch-Staunton, Bill S-15, in the previous Parliament. The government, in agreement with the honourable senator, adopted the bill, which currently forms Bill S-34.

• (1430)

The proposed legislation provides that Royal Assent will take place with two different systems, one under section 2(a) of the bill, in Parliament assembled, and the other under section 2(b), by written declaration.

The bill provides that there will be at least two Royal Assent ceremonies in Parliament assembled: one when the first bill of the session appropriating sums for the Public Service of Canada based on Main or Supplementary Estimates is presented, and then on one other occasion during the calendar year, such occasion to be chosen by the government. It has been indicated to us in evidence before the committee by Senator Carstairs, the sponsor of the bill, that the government would seek to choose an important piece of legislation and use the Royal Assent in Parliament assembled to highlight the importance and significance of that legislation to the Canadian people.

I wish to advise the Senate that certain amendments have been made by the committee with the support of the government. There was no preamble in the original bill. A preamble has been added, by amendment, to describe the essential nature of Royal Assent as a coming together of the Queen and Parliament. The proposed second paragraph of the preamble is as follows:

Whereas the customary ceremony of royal assent, which assembles the three constituent entities of Parliament, is an important legislative tradition to be preserved;

I wish to particularly commend the work of Senator Grafstein, who led a feisty discussion about various aspects of the bill and who proposed in the initial discussions that a preamble be included in order to describe the nature of Royal Assent and the reason for its importance.

Honourable senators, with respect to the written declaration process, after Parliament has given its concurrence to legislation, a written declaration will be taken to the Governor General, and the Governor General or his or her deputy will provide for Royal Assent "by written declaration," to use the exact words.

The committee reviewed the work of the McGraw committee in the other place, which referred to Royal Assent. It also reviewed the work of the Molgat committee in this house; that committee reported in 1985.

One of the recommendations of the Molgat committee was for a written declaration; in fact, every committee that has reviewed

this matter has been in favour of written declaration. Senator Molgat's 1985 committee recommended that when written declaration is used, it should be done in the presence of parliamentary witnesses, meaning representatives of the Senate and of the House of Commons. The principle that was used in Senator Molgat's report was that Royal Assent was a matter pertaining to the rights of the members of Parliament and thus they should have the opportunity to be present, even when written declaration was used. That provision is not contained in the bill. It was in an amendment that had been originally proposed, but the committee did not accept that amendment. I leave that for your consideration.

The opportunity to use written declaration with the Governor General or the Governor General's deputy was also discussed in the context of informal ceremonies. If written declaration were being employed, it would be possible for the government to invite Canadians who were affected by the legislation, proposed the legislation, supported the legislation or saw the legislation as vital to Canadian interests. They could be present at Rideau Hall, in the Speaker's chambers, or wherever Royal Assent by written declaration was being given. Nothing in the bill precludes that from taking place. Indeed, with respect to written declaration, there will undoubtedly be some guidelines proposed by government for discussion in the two Houses.

The committee has provided, apart from some amendments, an Appendix A with nine observations. I shall not take honourable senators through those. Honourable senators have the report before them, and they can consider those observations.

Those observations essentially focus on the importance of the Royal Assent procedure in Parliament assembled being treated with the significance that most senators believe it deserves. In other words, we will have two ceremonies a year in this Parliament. The view of the committee is that those ceremonies should be given the utmost of significance by the Prime Minister and the Governor General. It is the observation of the committee that both the Prime Minister and the Governor General should attend those two ceremonies. The ceremonies should be televised and there should be educational materials provided with respect to the important legislation to which assent is being given in Parliament assembled.

Honourable senators, it is also the observation of the committee that a better practice would be for the Governor General not to designate a member of the Supreme Court of Canada as a deputy but to designate a companion of the Order of Canada to act as deputy where a deputy is to be appointed.

I wish to note, for honourable senators, that the prerogatives of the Governor General allow her to appoint whomsoever she wishes, and Parliament has no authority to amend that particular prerogative. However, we can express a wish, and perhaps she will take our wish into account and, in consideration of the report, understand the reason therefor.

Honourable senators, that is the explanation I wish to give to the committee's report. I would be pleased if the house would adopt the report.

an opinion or even have a Senate chamber express an opinion. My first question to the chairman of the committee is this: Why did he choose to proceed in that way?

**Senator Cools:** Honourable senators, would the chairman of the committee take a question or two?

**Senator Austin:** I do not treat that as a question; I treat that as a representation.

**Senator Austin:** Yes, I would be pleased to take a question.

**Senator Cools:** Very well, I shall put the question in another way. What is the parliamentary authority procedurally, for the honourable senator as chairman and for the committee, to make such a recommendation within a report of the Senate committee?

**Senator Cools:** I have been looking at this report, and I find it quite an unusual procedural and even substantial phenomenon. The business of a report on a bill is usually to report the bill with or without amendments, and if there are amendments, simply to report the amendments. However, this particular report on Bill S-34 seems to contain a relatively verbose history. What is exceptionally unusual about this report is that it then turns around and, in addition to the narrative and the historical account, makes nine observations. These observations do not enter into the proceedings here, however, because they have not been read into the record. They all seem to be opinions of the committee.

**Senator Austin:** Honourable senators, there is no authority that prevents such an observation. The committee, in its wisdom, believes that this is an appropriate comment on the matter touching a bill relating to Royal Assent.

**Senator Cools:** I should like to challenge the committee chairman when he says that there is no barrier to this. For such a recommendation to be contained in a report that the Senate is expected to adopt — one that attempts to limit the powers or the rights of any senator to be called upon to perform Royal Assent — is unconstitutional and in flagrant violation of the Law of Parliament. Our chamber does not have a Lord Chancellor. However, in the House of Lords, the chamber upon which this chamber is modelled, that position is equivalent to the position of Speaker of the Senate. The Lord Chancellor is not only called upon to perform such functions but also is the highest representative of Her Majesty. If Senator Austin prefers, I could take the adjournment and speak on this rather than deal with it as a question. I was under the impression, however, that I would have full cooperation so that we could move the matter along. I do not understand why it is that in this report we are attempting to limit the rights of senators, of judges and of individuals to be called upon by Her Majesty to perform this lofty task of Royal Assent.

• (1440)

However, there is one observation that is particularly unusual. This is not a small point, honourable senators, because for a question such as this, especially when it involves a bill in respect of the personal prerogative of Royal Assent, it would be expected and hoped that such a measure would go forward with the least controversy and disagreement. After all, the honour and dignity of Her Majesty — that is, of her person — are at stake.

Honourable senators, it is not my intention to vote against this report but it is certainly my intention to register strongly my objections to some of the elements in it. My question involves observation No. 4, which states:

In those rare circumstances where the Governor General is unavoidably unable to attend Royal Assent personally, in the view of the Senate, and in light of the separation of powers between the Legislative and the Judicial Order, it would be desirable if Judges of the Supreme Court of Canada were not to be asked to act as Deputies to the Governor General for the granting of Royal Assent, but that the Governor General consider the appointment of companions of the Order of Canada to serve as Deputies for such purposes, provided that no member of the Senate or House of Commons or of the Cabinet should be so authorized.

What is extremely unusual in this instance, honourable senators, is that we have observations in a report on a bill whereby we are addressing issues and subject matter that did not form part of the subject matter of the bill. Nor did it form part of any of the provisions of Bill S-34. This strikes me as an extremely stealthy and unusual way to have a committee express

**The Hon. the Speaker *pro tempore*:** Honourable senators, before the Honourable Senator Austin replies, I must inform him that his 15 minutes has expired.

**Senator Cools:** Honourable senators, the honourable senator has 45 minutes to speak.

**Senator Austin:** I would be happy to answer the question, if the house agrees.

**Hon. Senators:** Agreed.

**Senator Austin:** Honourable senators, there is no attempt to limit anything. The observation is simply that, namely, an observation with respect to practice. There is no attempt to limit anything. As I said in my address on the tenth report, the Governor General is unencumbered in her choice of deputies. We made an observation. That is all it is.

[ Senator Austin ]



Honourable senators, with respect to the reference to members of the House of Commons, the Senate or the cabinet, I believe Senator Cools misunderstands the meaning of our observation. We are saying that the deputy who gives consent in the absence of the Governor General should not be a member of this chamber, a person who is not now in a position to give consent in a Parliament assembled. Furthermore, the person should not be a member of the House of Commons, who is not now a person who could give Royal Assent in Parliament assembled, and certainly it should not be a member of cabinet. Ministers are in attendance on the Governor General or the deputy to the Governor General and are not among those who give Royal Assent. We were seeking to avoid the issue where one of those persons, namely, a member of this chamber, of the other place or of the cabinet, who is a companion of the Order of Canada may be eligible to be chosen. That is simply what we were saying. I believe it is absolutely logical.

**The Hon. the Speaker *pro tempore*:** Honourable senators, the Honourable Senator Austin is not the sponsor of the bill. Only the sponsor of the bill has 45 minutes. Senator Austin is merely presenting the report of the committee. Therefore, the time allocated to him is 15 minutes, which has now expired.

**Senator Cools:** Honourable senators, perhaps we are creating a dilemma here. As I said before, I want to record here, as strongly as possible, that the opinions expressed in this committee report are not the opinions of all senators. It would have been far better if this matter could have proceeded without containing distinctly substantial and controversial provisions. Perhaps I should make it clear that I am voting to adopt the report because I believe that this kind of measure should go forward with as much agreement as is possible. In fact, the progress of this particular measure has been tainted with what I consider to be unnecessary contention and disagreement. However, I want it to be quite clear that as I am voting for the report, it is out of deference to Her Majesty the Queen and to the Governor General. In no way, in my mind...

**The Hon. the Speaker *pro tempore*:** Honourable Senator Cools, the time for the debate is finished.

**Senator Cools:** I have the right to speak now on this item.

**The Hon. the Speaker *pro tempore*:** You have.

**Senator Cools:** Perhaps I will start over and make my point.

Honourable senators, I had not intended to speak at this stage of the debate nor had I intended to speak to this particular set of measures. I had hoped, expected and anticipated that the committee would not bring forward such proposals, which in and of themselves deserve separate debate. Senator Austin describes these measures as "observations," but they are not that. They are distinct propositions and they are distinct proposals.

• (1450)

To the extent that the proposals have come forward in this very questionable and unusual way, peculiar almost, and are contained in the body of a report that is expected to be adopted, I believe that I should record that I disagree with them and that I also think that it is inappropriate the proposals are presented in this particular form. I think they are inappropriate in general. In other words, there are some bad propositions and bad proposals.

My objective therefore, honourable senators, is to let the record show that I objected to these particular propositions in the committee hearings. I object now. I think they are undesirable. I think they are wrong, and I also think they should not have been moved forward contained and hidden in the body of a report pretending to be observations. If members of the committee had wanted these proposals to come forward, they should have been put before the chamber as distinct proposals, each and every one debated and each and every one decided upon by the Senate.

I know many do not agree, but I have a sincere and abiding belief in this system called the Queen of Canada and the Crown of Canada. We have a duty to uphold these institutions, they have served us well, and it is my hope that they will continue to serve us for posterity.

Motion agreed to and report adopted.

**The Hon. the Speaker *pro tempore*:** When shall this bill, as amended, be read the third time?

On motion of Senator Carstairs, the bill, as amended, was placed on the Orders of the Day for third reading at the next sitting of the Senate.

## BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(Honourable Senator LaPierre).

**Hon. Laurier L. LaPierre:** Honourable senators, first, I must admit to my own sexual orientation. I am a gay man, living in harmony — harmony conditioned by human nature — with a kind and gentle man and whose silver ring I wear with comfort on the ring finger of my right hand.



Having admitted that, I must also tell you that my opposition to this bill has nothing to do with my sexual happiness, nor do I want to be married to my ring bearer, nor do I need my union with him to be recognized by the government and society, for I need only the recognition of my children and grandchildren, my immediate and extended family and my friends. I have that.

Why then do I oppose this bill?

I oppose it, first of all, because it is not necessary. It is a bill, according to its framer and sponsor, that makes evident what has been the rule of law since at least the beginning of Confederation and confirmed ever since on numerous occasions. If you look at Bill S-9, you will easily conclude that there is absolutely no need to make more evident or clearer what is actually evident and clear in our Constitution and which has been the *de jure* and *de facto* reality since we have begun to function as a country.

I also oppose it because it defies reality. Here is what the Law Commission of Canada stated in its December 2001 Report:

There is as yet no census data or reliable studies on the number of lesbian and gay couples living together in Canada. The available data from small-scale studies suggests that gays and lesbians form enduring conjugal relationships in numbers comparable to the population as a whole. It appears that a significant minority of Canadian households consists of same-sex couples.

So we have these unions. They are part and parcel of the fabric of our national life. Lengthy discussions on the word "conjugal" may be intellectually interesting, but they remain totally socially irrelevant.

The reality is that gay people form unions and perform the responsibilities imposed by that union just like married couples do and just like common-law couples do. That is the reality.

The Supreme Court declared in 1999:

...the capacity to form conjugal relationships characterized by emotional and economic interdependence has nothing to do with sexual orientation.

Honourable senators, there is also another reality, a reality that the sponsor of this unnecessary bill missed in her remarks introducing the bill with readings from the scriptures and the Book of Common Prayer of the Anglican Church. I would like to remind honourable senators, and again I quote the Law Commission of Canada:

Contemporary Canadian understanding of religious freedom and equality require that the state not take sides in religious matters. The history of marriage regulation in Canada has thus been characterized by a progressive uncoupling of religious and legal requirements, reflecting a

growing emphasis on the separation of church and state in secular and pluralistic political community.

That is a reality.

Here is yet another reality: Marriage is no longer exclusive the institutional instrument for the procreation of children, an argument always put forward by the proponents of this unnecessary bill.

Listen once again to the Law Commission:

A review of the history of state regulation of marriage helps illuminate that the state interest in marriage is not connected to the promotion of any particular conception of appropriate gender roles. Nor is the state reserving marriage to procreation and the raising of children. People may marry even if they cannot or do not intend to have children. The purposes that underlie contemporary state regulation of marriage are to provide an orderly framework in which couples can express their commitment to each other and voluntarily assume a range of legal rights and obligations.

To vote for this bill then would be to accept the Neanderthal idea that common law is static and incapable of expanding to meet the various and changing needs of society.

I oppose the bill for those reasons but, above all, I oppose it because it is discriminatory.

By arguing that marriage as a civil right and conferring a civil status is the exclusive right and status of heterosexuals denies that right and status to those who are homosexuals. Thus, it is an affront to the Charter of Rights and Freedoms. Why? It is obvious. It denies that all Canadians, regardless of their religion, culture or their sexual orientation, are equal before the law before the Charter, and before each other.

In my humble opinion, it would be most inimical to the interests of the Senate if, instead of repairing this massive injustice, we add to it. We will do that if we vote in favour of this legislation.

Honourable senators, the senate would become a co-conspirator in the denial of a right to a particular segment of society while according it to others. All over this sacred land of freedom, same-sex couples form unions. They have the right to the status and the recognition of the validity of their union before the law and before their fellow citizens. The stubborn refusal by some heterosexuals who are determined at all costs to exclude some Canadians from the right and status and recognition they themselves enjoy unless their fiat is accepted — a fiat originating in the far, far away antiquity of time — is disheartening and bodes badly for the harmony that must exist between the different groups of a modern and democratic society.

• (1500)

We are told that marriage has been ordained since time immemorial for the union of a man and a woman. Well, it is not so. It became so. However, it well to remember or to know that antiquity was full of same-union marriages; also, it was so in the early times of Christianity and Orthodoxy. This practice of same-sex union endured for centuries. Montaigne in 1578, while visiting Rome, found such a ceremony and union in the Church of St. John of the Latin Gate — a ceremony, he concluded, was in fact an ecclesiastical legitimization of homosexuality.

Honourable senators, if one looks at the historical evidence, one cannot escape the fact that marriage became a same-couple extravaganza, blessed by all sort of deities, in order to assure the legitimacy of the children, the safe passage of the inheritance and the status of royals, feudal lords and families. They feared that illegitimacy, the fruits of which they came to enjoy through adultery, would cause havoc with the social status of the family and the tribal order.

The Church went along with it, no doubt because men of the cloth have always feared the power of women, particularly in sexual matters. Marriage made a woman the property of her husband and subject to him, thus controlling her to the largest possible degree. They forced her to hide her femininity under yards of cloth and contrived with the men of her family and with her husband to keep her ignorant and chained to the stove — a state that has been the fate of women in every conceivable church and religion we believe in and which have all been established by men wearing skirts. The Taliban, who also wear skirts, were only following the dictates of tradition.

It is obvious to me that to achieve the end of the subjugation of women it was necessary for the promulgators of marriage to launch a horrible campaign of discrimination against homosexuality — a campaign that coincided, oddly enough, with what became the compelling obsession of most religions: anti-Semitism.

In the long and cruel campaign against homosexuals of either sex, but particularly gay men, many have been discriminated against in the name of the gods and their lives ruined to maintain the hegemony of a fragile orthodoxy. They died in the dungeons of the princes of the churches and of the states or burned at the stake by order of the churches or stoned in the public square of Imams. They died as well in the concentration camps of the Nazis. They died abandoned; they were denied comfort; they were reviled in the pulpits during the first days of AIDS, a moment in our history that I know much about; and they still die in the dark streets and parks of our cities. Moreover, while they lived and live, they were and are discriminated against — an abuse of human rights too often blessed by the silence or the conspiracy of the churches.

But we have survived. Even though our denials of rights and status and recognition continue, the gay women and men of

today living in my country are better off than I was in my youth, in my early manhood, in my middle age and even 10 years ago at the beginning of my old age.

Why am I telling honourable senators all this? It has nothing to do with bitterness for the atrocities of the past. I am telling you all of this because I do not want any more exclusion for any citizen of my beloved country. Exclusion always leads to betrayal and persecution. This is the lesson of history.

I beg of you, honourable senators, to accept the recommendation of the Law Commission to the effect that Parliament and provincial-territorial legislatures move toward repealing legislative restrictions on marriages between persons of the same sex. By killing this unnecessary, discriminatory and unjust bill, honourable senators will hasten the march toward the repeal of our pernicious marriage laws.

In conclusion, honourable senators, I beg of you: Do not go there. Kill this bill. More and more Canadians accept same-sex marriages. Provinces are studying legislation to recognize such unions, as are religions of various kinds. This movement or tendency is bound to grow. The day will come when all homosexuals will be equal with all heterosexuals. At that moment, harmony will be returned and the individuals of the group to which I belong will walk in the light of day and under the stars at night without fear.

**The Hon. the Speaker *pro tempore*:** The Honourable Senator Cools is the sponsor of the bill.

**Hon. Anne C. Cools:** Would the honourable senator take a question?

**The Hon. the Speaker *pro tempore*:** Will Senator LaPierre take a question?

**Senator LaPierre:** No, honourable senators. I am close to my emotions.

**The Hon. the Speaker *pro tempore*:** Senator Cools may ask a question.

**Senator LaPierre:** I said no.

**The Hon. the Speaker *pro tempore*:** I am sorry. I will recognize Senator Jaffer.

Senator LaPierre said no, he would not take a question. If Senator Cools speaks now, her speech would have the effect of closing the debate because she is the sponsor of the bill.

**Senator Cools:** I want to take the adjournment in the name of Senator Sparrow.

**Hon. Mobina S.B. Jaffer:** I was rising to take the adjournment in my name on this debate.



**The Hon. the Speaker *pro tempore*:** It is moved by the Honourable Senator Jaffer, seconded by the Honourable Senator Cordy...

**Senator Cools:** I said a few moments ago that I wish to take the adjournment in the name of Senator Sparrow. I said that about 30 seconds ago before Senator Jaffer spoke.

**The Hon. the Speaker *pro tempore*:** I am sorry. I recognized Senator Jaffer because I heard her. She will take the adjournment of the debate.

**Senator Cools:** Your Honour recognized her after I said what I had to say.

**The Hon. the Speaker *pro tempore*:** It is moved by the honourable Senator Jaffer, seconded by honourable Senator Cordy, that debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

• (1510)

## BANKING, TRADE AND COMMERCE

### COMMITTEE AUTHORIZED TO EXTEND DATE OF FINAL REPORT ON STATE OF DOMESTIC AND INTERNATIONAL FINANCIAL SYSTEM

**Hon. E. Leo Kolber,** pursuant to notice of February 20, 2002, moved:

That the date for the presentation by the Standing Senate Committee on Banking, Trade and Commerce of the final report on its study on the present state of the domestic and international financial system, which was authorized by the Senate on March 20, 2001, be extended to Thursday, March 27, 2003.

Motion agreed to.

[Translation]

## OFFICIAL LANGUAGES

### SEVENTH REPORT OF JOINT COMMITTEE—MOTION TO SEND MESSAGE TO HOUSE OF COMMONS OBJECTING TO UNILATERAL APPENDING OF DISSENTING OPINION—DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier,** pursuant to notice of March 5, 2002, moved:

That a Message be sent to the House of Commons objecting to its decision of February 21, 2002 to append unilaterally a dissenting opinion to the Seventh Report on Official Languages, and thus ignore the legitimate rights of the Senate in a matter relating to a Joint Committee.

**Senator Gauthier:** Honourable senators, this serious and important issue demonstrates, yet again, the lack of respect and indifference toward the work of parliamentarians in the joint committees of both Houses of Parliament.

[English]

This matter is in respect of a unanimous decision taken by the other place, whether it has the authority to do that and whether it has the automatic approval or concurrence of the Senate in matters that result from a joint study.

The matter was an important question that resulted in a serious study and a parliamentary report by the Standing Joint Committee on Official Languages on Air Canada and its legal obligations under the Official Languages Act.

Whatever the practice may be in the House of Commons, whatever decision it may take regarding dissenting opinions in a committee, it is not for us in the Senate to approve or disapprove. There are no rules here in the Senate regarding the approval or the printing of dissenting opinions. Our committees try to accommodate the views of the minority by incorporating them in the body of the report, by stating that on such-and-such a recommendation there were dissenting opinions. It would be a valid question to ask which rules apply to joint committees and how they deal with dissenting opinions.

Let me assure honourable senators that if Mr. Reid, the Canadian Alliance representative on the committee, had proposed his dissenting opinion in committee, or even discussed it, he would have met polite and firm opposition from many members of the committee. One should not bootleg a dissenting opinion after the fact.

In his remarks to the House of Commons, Mr. Reid said he was absent from the committee because he was detained in Toronto on the day of the tabling of the report. I can understand that. However, surely he could have asked a fellow member of his party to present his views to the joint committee. His party is, after all, the official opposition in the House of Commons.

In any case, we have a report that was produced by assiduous members of both Houses. I do not accept that the report can be changed or negated by an absent member of Parliament. There is one role of Parliament that I know well: Speak up at the appropriate time or forever keep your dissenting opinions to yourself.



I will not discuss the substance of the dissenting opinion. I think it would be incorrect of me to do so. My point is that if we remain silent on this matter, we will be creating new parliamentary procedures and abandoning the long tradition of parliamentary practices whereby both Houses must adopt measures that are similar in their object and consistent with longstanding practices of parliamentary rules, procedures and traditions. Further, if this matter is not challenged, it would make either House of Parliament the hostage of every dilatorious motion one can imagine.

The decision of the House of Commons to annex a dissenting proposition to a joint committee report, after the fact, without the concurrence of the Senate, is nevertheless an order, I must admit, of the House of Commons, and the Senate must object strongly to this practice. In my opinion, and without reflecting on the speaker's decision at that time to accept said motion, it was an inappropriate proposition that should have been rejected or at least sent back to the Official Languages Committee for discussion and debate, and possibly decision.

I am familiar with the old rule of Parliament that once a decision is taken, once a question has been put and decided, it cannot be questioned again and must stand as the judgment of that House. I understand that. It is not for us in the Senate to offer advice to the other place on how to resolve this matter. The problem is with the House of Commons, not with the Senate. They must find a solution to correct their error or their mistake.

It is my firm conviction that joint committees have limited powers and that one House cannot act unilaterally. True, we do not have specific rules that apply to joint committees. Some honourable senators will recall that I tried years ago in this place, in 1994-95, to get agreement from the Senate and the House of Commons to draft rules for joint committees. I was the Chair of the Standing Committee on Privileges, Standing Rules and Orders in this place at that time. Senator Grimard worked with me on this issue in 1995. I fell sick in 1996 and he resigned or retired at about the same time. The issue is still with us. We do not have any rules for a joint committee.

The practice is simple. We have two co-chairs. If the House of Commons representative is in the chair, the rules of the House of Commons prevail. If a senator is in the chair, it is the rules of the Senate that prevail. The rules are quite different. I have lived in both Houses. They are different ballgames altogether.

[Translation]

The only powers that a joint committee has are those that it is granted by both Houses and these powers may not be expanded by an order of only one of the two Houses.

On Monday, February 18, 2002, the Joint Committee on Official Languages finished its report on services provided in both official languages by Air Canada.

On Wednesday, February 20, 2002, the Joint Chair of the Committee on Official Languages, Mauril Bélanger, came to see me in the Senate to inform me that he was planning on tabling the report on Air Canada in the House of Commons on Thursday, February 21, 2002.

Given that the Joint Chair of the Committee on Official Languages, the Honourable Shirley Maheu, was not present, I accepted, as a member of the committee, to table the said report in this House that very same day.

• (1520)

In the *Debates of the House of Commons* for February 21, we note that M.P. Scott Reid of the Canadian Alliance asked for unanimous consent to present a dissenting report to the report of the Standing Joint Committee on Official Languages.

What is the most offensive is that this dissenting report by Mr. Reid was officially appended to the report by the Standing Joint Committee on Official Languages without discussion in committee or the concurrence of the Senate. The *Journals of the House of Commons* state as follows:

By unanimous consent, Mr. Reid (Lanark—Carleton) presented a dissenting report, which was appended to the Seventh Report of the Committee — Sessional Paper No. 8510-371-131 tabled February 21, 2002.

Honourable Senators need to keep in mind that this dissenting report was not discussed by the Joint Committee on Official Languages, nor included in the official report tabled by Mr. Bélanger in the House of Commons and by myself in the Senate.

As far as I am concerned, this dissenting report does not exist. Moreover, the House of Commons has overstepped its authority by agreeing unanimously and unilaterally to append a dissenting report, thus overriding the legitimate rights of the Senate in anything involving a joint committee.

I believe that this is serious grounds for a question of privilege, but knowing what I do of the situation and of the rules of the two Houses, I know that this objection would not go far, even if it gave rise to a point of order or a question of privilege, because a question of privilege raised in one Chamber has no impact on the other. The Speaker would tell me that it is up to the committee to settle this. Normally, that is what should happen, but in this case, it is a matter of a decision by one Chamber to modify a current report by a joint committee. This is not right.

Current practice under the rules, as I have said, is that, lacking any specific rule governing the procedure in a joint committee, it is up to the chair of the time, that is the Senate co-chair, to preside, applying the *Rules of the Senate*. When it is the House of Commons, on the other hand, it is the House of Commons chair, the MP, who presides. A knowledge of the two sets of rules is necessary to know the difference.

The objection that I am proposing is serious and unequivocal. One House cannot change a report adopted by a joint committee, even if it obtains the unanimous consent of the other House.

We cannot declare that tomorrow is Christmas! The House of Commons may, but we will not believe them. They have the power to say that tomorrow is Christmas? Come on now! They no more have the right to say that tomorrow is Christmas than they do to say that a dissenting opinion can be appended to a joint committee report, without asking the committee to decide on the issue. It is only common sense.

I already experienced something similar to this a few years ago when a joint committee tabled its report on important issues in foreign affairs. We had reviewed the country's foreign policy and tabled the report. We did not anticipate the extraordinary demand that ensued. There were not enough copies printed. The House of Commons decided, without consulting the Senate, to photocopy the report and change its format. The new copies included the dissenting opinion of the time with the main report, which is not at all the standard practice. We objected, but nothing happened. Senator MacEachen even raised a question of privilege. It was found that he was right, but that nothing could be changed since there are no provisions for joint committees in the rules.

I will read some excerpts from the ruling by Speaker Molgat, given in the *Debates of the Senate* for February 14, 1995, on page 1193.

The procedures of our joint committees are not adequately defined in their terms of reference. There is nothing about the rules or procedures that prevail in case of difference between the two chambers.

He concludes:

Perhaps our Standing Committee on Privileges, Standing Rules and Orders, in consultation with a committee of the other place, could propose a set of rules for approval by both chambers.

This has not yet occurred. Perhaps some serious thought needs to be given to it. It would be important, if we want to continue to have joint committees, for the people working on those committees to know what rules apply. I invite MPs and senators to show their disagreement by supporting my motion to censure an action taken by the House of Commons. The legitimate rights of the Senate in a matter relating to a joint committee must be respected.

[ Senator Gauthier ]

I call upon honourable senators to support this motion and to suggest to the House of Commons that it annul the decision to append this dissenting report to the report by the Joint Standing Committee on Official Languages, tabled on February 21, 2002.

On motion of Senator Maheu, debate adjourned.

[English]

## NATIONAL SECURITY AND DEFENCE

### COMMITTEE AUTHORIZED TO STUDY NEED FOR NATIONAL SECURITY POLICY

**Hon. Jane Cordy**, pursuant to notice of March 5, 2002 moved:

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the need for a national security policy for Canada. In particular the Committee shall be authorized to examine:

a. the capability of the Department of National Defence to defend and protect the interests, people and territory of Canada and its ability to respond to or prevent a national emergency or attack;

b. the working relationships between the various agencies involved in intelligence gathering, and how they collect, coordinate, analyze and disseminate information and how these functions might be enhanced;

c. the mechanisms to review the performance and activities of the various agencies involved in intelligence gathering; and

d. the security of our borders.

That the Committee report to the Senate no later than June 30, 2003, and that the Committee retain all powers necessary to publicize the findings of the Committee until July 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?



**Hon. Tommy Banks:** Honourable senators, I would like to ask Senator Stratton and Senator Cordy questions. My first question is for Senator Cordy. Would the honourable senator reflect on, for reasons which I promise to explain in a few minutes, her reaction and my known reaction to questions that were raised in the house yesterday, and that may be raised again, in respect of the last part of the request for reference, which was just put, concerning the Senate's accepting the tabling of a report of a committee on a date specific by filing it with the Clerk of the Senate in the event that the Senate is not on that day sitting?

• (1530)

I should like also, as a matter of order, I suppose, but having to do with this issue, to correct an impression that I gave the Senate yesterday in response to a question from Senator Stratton on this order of reference and the previous one. I had said that the report of the Standing Senate Committee on National Security and Defence had been tabled with the Clerk of the Senate on February 28. The February 28 tabling was in fact the day on which the press conference took place at which the report was made widely public. However, the actual filing with the Clerk of the Senate of the present fifth and final report of the Standing Senate Committee on National Security and Defence was made on Thursday, February 27. I wanted to place that on the record to clarify matters.

Having heard the criticism of yesterday, does Senator Cordy still believe that it is appropriate that the provision to table the report with the Clerk of the Senate if the Senate is not sitting continue to be contained in the present request for a reference?

Bear in mind that there is not now a way to know whether the Senate will be sitting on June 30, 2003. We may not be sitting, but the committee's request for reference asks permission, if the Senate is not sitting on that day, to file the report as per the *Rules of the Senate* by tabling it with the Clerk of the Senate. I would ask Senator Cordy to speak to that question.

**Senator Cordy:** The entire committee developed this motion; therefore, I will not to take it upon myself to change the date. We sat down as a committee and determined that this was exactly what we wanted as a motion. If Senator Banks recalls, we went through the report word by word, so I would not even wish to attempt to change a "the" on my own.

I do understand the concern raised yesterday by Senator Stratton that senators would wish to have the document in their hands before they read about it in the newspaper. I suppose that as a committee we could keep that in mind. However, I can say that I would not change even one word of the report, since we spent so long in the committee examining each and every word.

**Hon. Terry Stratton:** When I asked the question yesterday with respect to the release of the report and was informed later by Senator Banks that it was on the Internet, I checked the document itself. I believe it is something like 236 or 238 pages, which is quite a substantial report. If we are out in our regions and we receive such a document by e-mail, to print it off would

not be a quick process with my printer. That is something that we should look at when we are releasing reports. I believe Senator Cordy did the right thing, but it was tough not to have the report in hand to comprehend what was happening in the press conference.

If there is an executive summary in that report — and I know there is — we should at least have access to it so that we can be informed, although not totally informed. If our offices receive the whole report, they are not likely to e-mail the entire 236-page report and recommend that we read it. That is not normally done unless requested. On a matter of significance such as this, to receive an e-mail with the executive summary is of great advantage for all honourable senators. That may be a practice that this chamber should adopt, if we are to do this in the normal course of events.

In other words, the report can be released publicly as it is tabled in the Senate. Then, if the Senate is not sitting, information can be passed on by way of executive summary to honourable senators who are out in the various regions of the country. In that way, we can at least be informed.

Would Honourable Senator Cordy wish to comment?

**Senator Cordy:** Yes. I should like to start off by saying that computers work much faster in the East.

It is good that this issue has been brought forward for discussion, since it involves not just the National Security and Defence Committee but for any other committees that are putting forward reports. The members of the committee worked long hours because we knew that we had to get our report to the translators and to the printers before the date that we had submitted to the Senate. We told the Senate that our report would be put out on a specific date. If we had asked for an extra week, it may have been easier for us.

Every committee tabling or presenting a report should take note of the issue that was raised yesterday. We did not take into account those weeks when the Senate had planned to sit but did not. The National Security and Defence Committee will be very cognizant of this when it brings forward its next report, and hopefully all other committees will do the same thing.

**Senator Stratton:** The report is quite comprehensive and has a huge impact on the recommendations with respect to national defence in particular.

When the committee was given its mandate by the Senate, it was virtually to go out and define what the committee would examine. The committee felt that it needed to do that to have a comprehensive understanding of what was required. There was some concern on the part of some honourable senators as to why the committee needed to spend that kind of money to get an outline of its function and role, when a new committee such as the Human Rights Committee, for example, did the same for \$600. I was concerned about that. I accept the fact that what the committee did was right and the chamber accepted that.



The remaining question is this: Did the committee clearly define its mandate and role in this report?

• (1540)

**Senator Cordy:** As a member of the committee, I would say the Senate got very good value for its money due to the number of hours we put in. I thank the honourable senator for his comments on the comprehensiveness of our report.

The committee took a long time to determine how we should go about starting our work and what we should do. Coming into this committee, members were at different levels in terms of background knowledge. As a group, we decided the best way to proceed was to visit military bases and talk to military and security people to determine their concerns, such that our committee could determine the future direction we wished to take.

I wish to say that this first report answers all the questions raised, but I think it has created the idea that there is so much more that we have to learn. In fact, it is only an overview of national security and defence in our country, thus we have selected other areas to go into in more detail during the next year and one half.

**Hon. John G. Bryden:** The honourable senator indicated that she cannot change a word of this motion because every word is carefully crafted. Of concern to me is that it is highly unlikely that the Senate will be sitting on June 30. In the seven years I

have been here we have never had to go that late. Sometimes folks on the other side play a few games, but we generally report before the last week.

**Senator Stratton:** There have been exceptions since I have been here.

**Senator Bryden:** The reason some of us are concerned is that if we have adjourned for the summer and this motion is adopted, members of the committee, including the chairman, will be asked to spend the summer travelling the nation, or nations, if they wish, explaining to the public what the report is all about before the Senate has had a chance to debate it.

It just happened that a report was filed in February while we were not sitting, in order to meet its final date. Therefore, even though it is a final date, it is a legitimate concern to say, would you put June 30 as a date?

**Senator Cordy:** The wording says no later than June 30. I understand the honourable senator's concern. It was a concern raised yesterday. All I can say is that as a committee, we will be very aware of what happened this time and make every assurance that it will not happen again.

On motion of Senator Maheu, debate adjourned.

The Senate adjourned until Thursday, March 7, 2002 at 1:30 p.m.

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CANADA

# Debates of the Senate

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• 37th PARLIAMENT •

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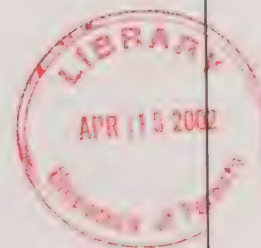
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OFFICIAL REPORT  
(HANSARD)

Thursday, March 7, 2002

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

## OFFICIAL REPORT

### CORRECTION

**Hon. Mobina S. B. Jaffer:** Honourable senators, I rise on a point of order to make a correction to the *Debates of the Senate*. On Thursday, November 22, 2001, I made a statement under "Senators' Statements" which is recorded at page 1757. I should like to correct the heading of that statement. The heading reads: "Influence on Hate Crimes of Bill to Remove Certain Doubts Regarding the Meaning of Marriage." I should like that amended to read: "The Tragic Murder of Aaron Webster."

**The Hon. the Speaker *pro tempore*:** Is leave granted for the correction to be made in Hansard?

**Some Hon. Senators:** Agreed.

**Hon. Anne C. Cools:** Will the correction be made?

**An Hon. Senator:** Yes.

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## THE SENATE

Thursday, March 7, 2002

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### INTERNATIONAL WOMEN'S DAY

##### **Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, tomorrow we mark International Women's Day. The Canadian theme for 2002 is "Working in solidarity: Women, Human Rights and Peace." The purpose of establishing annual events such as this is to draw the attention of the international community to an issue so that those who are privileged can help those who are not. While women here at home still live with inequalities that must be redressed, it is women in lesser-developed countries that stand to benefit the most from International Women's Day.

International Women's Day was first marked in 1911 to protest women's working conditions. There are still women around the world who labour in intolerable conditions and who are forced into situations where they must exploit every possible option, however deplorable, in order to feed themselves and their families.

[Translation]

Too many women are being denied basic human rights and are living under oppression, which is engendered by poverty, powerlessness and violence. This tragedy is aggravated by the fact that women, as a general rule, are the ones responsible for child rearing, so the next generation grows up in the same deplorable conditions.

[English]

However, today is also a day to celebrate progress made by women over the past year. In Afghanistan, a country where women have one of the shortest life expectancies, there is now a Department of Women's Affairs headed by Dr. Sima Samar, and the Minister of Health is also a female physician. The government is making concerted efforts to encourage women to take their rightful place in public life and to rebuild the country so that it respects human rights and peace. We must continue to recognize the importance of women's rights, because where women are respected and valued, so too are all human rights, and peace therefore follows.

**Hon. Ethel Cochrane:** Honourable senators, I rise as well today in recognition of International Women's Day, which will

be marked tomorrow, March 8. This year's theme is "Working in solidarity: Women, Human Rights and Peace." Today we are perhaps more keenly aware than ever of the concept of peace. While many of us define peace simply as the absence of war, it is important that we draw attention to the fact that human rights are also a fundamental component.

Surely we can agree that we have made major strides in advancing women's rights and causes in Canada. Many Canadian women today have never had the experience of not being allowed to vote, or being prevented from pursuing academic goals or being denied the opportunity to sit in Parliament. These are accomplishments of which we are rightfully proud.

However, statistics reveal significant problems remain. Consider, for instance, that 51 per cent of Canadian women have been victims of at least one act of physical or sexual violence since the age of 16. Many women still live under the constant threat of violence and degradation.

The present reality is that, in Canada, two women are killed each week as a result of domestic violence. Findings from general social surveys show that women represent 98 per cent of victims of sexual assault, kidnapping or hostage-taking in the home. They account for 80 per cent of criminal harassment victims. Consider that women's after-tax income is still only 63 per cent of what men take home, despite the fact that they work longer hours.

What is especially disturbing when you look at these trends is that our youngest women are still facing traditional inequalities. According to the report released last year, entitled "Economic gender equality indicators 2000," women aged 15 to 24 work 18 per cent more than their male counterparts. Honourable senators, that represents about two weeks more work every year. While the share of paid work done by young women is high, their share of unpaid work is even higher.

While the statistics paint a very dark picture indeed, they also supply glimmers of hope. For instance, researchers have observed an overall decline in wife assault and in the severity of violence directed against women in Canada. We have also observed a greater gender balance in many fields of education. Women are making steady progress into fields that have been heavily male dominated, and women's share of job-related training is increasing, especially in training sponsored by employers.

Honourable senators, March 8 is a time for us to consider the major contributions that women have made in our society. More important, it is a time to stand up for those who have no voice and to remind everyone that the struggle for women's rights continues right here at home and around the globe.



• (1340)

We all have a role to play in advocating women's rights. We are called to do more, and we must do more. In support of women, peace, and the ideals of Canadian society, we must acknowledge inequality in all its forms and unite to conquer its roots.

### CANADIAN BROADCASTING CORPORATION

**Hon. Laurier L. LaPierre:** Honourable senators, I did not intend to speak on International Women's Day tomorrow. However, I am reminded that I was the first person to ever interview a battered wife on television, and it was an unbelievable experience in my life.

Today when I went to the Victoria Building, all the ladies were receiving a rose, and so did I. I do not know if it had anything to do with my speech yesterday, but I got a rose and I thanked the ladies profusely.

However, I wish to speak about something else. Regarding an indecent attack on the CBC by a certain broadcaster, I would like to set the record straight. The Canadian Broadcasting Corporation is not the only television network that receives public funds in Canada. They all do. Every documentary, drama and certain children's and variety programs that meet the Canadian content rules are largely paid for by the taxpayers of Canada, whether it be through the federal government, the provincial or territorial governments, municipal or regional governments or Telefilm Canada, which has a television fund. I make bold to say that more than half, and in most cases, more than that, of the costs of making such programs in Canada is paid out of the Canadian governmental budget.

The recent attacks on the CBC by a particular broadcaster, whose contribution to Canadian content leaves much to be desired, is indecent and unwarranted.

That thought has brought me to another one. Since my public declaration that, in due course, I would ask the Senate to approve a special study on the concentration of ownership of the media, particularly in its cross-media existence. I have received many letters supporting this move. This support has been shown as well in discussions I have had in person with various groups across this land. Several senators have also encouraged me to pursue the matter.

Consequently, I shall do so. It is my intention to send a letter to all senators to gauge their interest and, if there is any interest, to call a meeting of interested members of the Senate before the April break in order to determine the best way to proceed.

Vive le Canada!

### INTERNATIONAL WOMEN'S DAY

**Hon. Nicholas W. Taylor:** Honourable senators, I want to make a statement on International Women's Day to ensure it is not the exclusive preserve of the opposite sex.

[ Senator Cochrane ]

In addition to some of the progress that we have been making internationally and, of course, nationally, I wish to point out one area we should all think more about. That is valuing the homemaker, the person who rocks the cradle, one might say, who sets the rules that world and who is also the person in charge of the initial education of our children, as well as a great deal of their life development.

I know, as a father of seven daughters and being married to a wonderful woman for 53 years now, a great wife and mother, that that is a part of society that is not recognized. We are great at making inroads toward equality of employment opportunities. We have seen that through my daughters and their children. We have made some great strides in that area, but we are still almost in the dark ages when it comes to tax allowances or recognizing the value of the woman of the house and women generally get stuck with care-taking and education. I do not think they are complaining about it, but many claim they are not recognized as an equal partner in building the country and building the marriage. Tax deductions or tax allowances are always based on what the man is doing outside the home, not what the woman is doing inside the home.

### SCOTT TOURNAMENT OF HEARTS CHAMPIONS

#### CONGRATULATIONS TO COLLEEN JONES RINK

**Hon. Wilfred P. Moore:** Honourable senators, on March 2001, I rose in this place to extend congratulations to Colleen Jones and her rink from the Mayflower Curling Club in Halifax, Nova Scotia, upon winning the Scott Tournament of Hearts Canadian Women's Curling Championship, being the third win by skip Colleen in that event.

This past weekend in Brandon, Manitoba, Colleen Jones and her rink defeated Saskatchewan's Sherry Anderson 8-5, to win this national title. In so doing, Colleen Jones made Canadian curling history by winning an unprecedented fourth national championship as skip.

We congratulate skip Colleen, lead Nancy Delahunt, second Mary-Anne Wayne, third Kim Kelly, alternate Laine Peters and coach Ken Bagnell. One cannot say enough about this superb team of female athletes who have won three national titles together while managing to juggle their family lives, careers and personal pursuits. They are our heroines.

I know that all honourable senators join me in wishing this rink every success as they represent Canada in defence of the World Women's Curling Championship title, scheduled for Bismarck, North Dakota, starting on April 6.

It was good to see the front page and headline reporting that this female athletic triumph was deservedly received in the local and national press.

## INTERNATIONAL WOMEN'S DAY

**Hon. Joan Fraser:** Honourable senators, I, too, would like to say a word on the occasion of International Women's Day. I would like to take slight issue with Senator Taylor, who seems to be suggesting that all the battles have been won in the employment world for women. Legally speaking, it is true, the battles have been won, but in practice, not necessarily.

I have just a couple of figures, honourable senators. I asked my staff to keep track of the weekly appointment reviews that appear in *The Globe and Mail* for the past five or six months, from October 1 last year to March 4 of this year. They appear in the Report on Business, and they are a weekly summary of those paid ads for executive appointments. Women made up approximately 23 per cent of those appointments, 89 women to 293 men. Twenty-three per cent is not our share of the population, and I can tell you, honourable senators, that if we were to remove the number of women who had been promoted in the non-profit sector, the numbers would be even lower.

I am reminded of a study done in the United States using Standard & Poor's numbers for most of the 1990s, which showed that the fraction of women in top level management had nearly tripled. Sounds wonderful, does it not? It went from 1.3 per cent in 1992, to 3.4 per cent in 1997. You can project the trend line for yourselves.

The point is, we have a long way to go. In this chamber, we can hold our heads high. At 32 per cent women, we have a better standing than almost any legislative chamber in the world. There are fewer than a dozen that have a higher percentage of women than does this chamber. I suggest we try to achieve the same results everywhere.

•(1350)

## ROUTINE PROCEEDINGS

### YUKON BILL

#### REPORT OF COMMITTEE

**Hon. Nicholas W. Taylor,** Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, March 7, 2002

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

#### TENTH REPORT

Your Committee, to which was referred Bill C-39, An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts, has, in obedience to the

Order of Reference of Wednesday, December 12, 2001, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

NICHOLAS W. TAYLOR  
Chair

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Christensen, bill placed on Orders of the Day for third reading at the next sitting of the Senate.

## REDISTRIBUTION OF SEATS IN HOUSE OF COMMONS

### INFLUENCE OF 2001 CENSUS—NOTICE OF INQUIRY

**Hon. Lowell Murray:** Honourable senators, I give notice that on Tuesday next, March 12, 2002, I will call the attention of the Senate to certain issues related to the redistribution of seats in the House of Commons, subsequent to the decennial census of the year 2001.

## QUESTION PERIOD

### TRANSPORT

#### AIRPORT SECURITY—EFFICACY OF PROPOSED BOMB DETECTION EQUIPMENT

**Hon. Donald H. Oliver:** Honourable senators, my question is for the Leader of the Government in the Senate. She will recall that a month or so ago I asked her a question relating to the air travel tax that this government will use to pay for new air security measures and equipment.

On March 6, the *Ottawa Citizen* carried an article in which a leading aviation security expert named Michael Boyd said that Canada is making a mistake by buying expensive and unproven bomb detection machines from U.S. suppliers. According to Mr. Boyd, the machines in question are "abominably slow and abominably unreliable." He also claims that the machines are prone to false alarms that substantially delay baggage handling and force security to use ineffective hand searches of checked bags.

Could the Leader of the Government in the Senate please explain what the government intends to do about these allegations, and does she have any information as to whether they are accurate?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the Honourable Senator Oliver for his question. Clearly, the Government of Canada intends to buy the best equipment and will analyze all the comments that it receives, including the one that was found in the newspapers, to ensure we are getting the best available machinery on the market.



**Senator Oliver:** Honourable senators, at \$1.6 million per machine, the government is putting big money into this new equipment. To give assurance to members of the Senate and to properly address our concerns, could the Leader of the Government in the Senate please make queries of her colleague the Minister of Transport as to the validity of these claims and could she file something with the Senate so we could all read the response?

**Senator Carstairs:** Honourable senators, I certainly can follow through as the honourable senator has indicated. However, the machinery in question is being purchased not only by us, but also by the United States. Not only has our country done a review of the capability of this machinery but so, too, has the United States.

If further evaluations are done and, in particular, if there is a response to the honourable senator's particular question, I will get back to him as soon as I can.

## NATIONAL SECURITY AND DEFENCE

### SEVENTH REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

**Hon. Ethel Cochrane:** Honourable senators, my question is to the Leader of the Government in the Senate. The report by the Standing Senate Committee on National Security and Defence has opened many Canadians' eyes to just how poorly the Liberal government is controlling the activity at ports across our country.

Given that roughly 15 per cent of dock workers in Montreal, almost 40 per cent of stevedores in Halifax and almost 54 per cent of longshoremen in the Port of Charlottetown have criminal records, can the Leader of the Government in the Senate please tell us why the government does not have a policy in place requiring mandatory background checks on personnel working at our ports across the country?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator has indicated, those are certainly the kind of statistics found in the Senate report. Questions were raised by the port authorities themselves concerning the validity of those particular statistics. However, it is incumbent upon the government — and it has undertaken to do so — not only to study the report in detail, but also to make further inquiries as to what the port authorities think of the particular advice that is provided to us by our Senate committee.

To date, the port authorities have indicated that they were not asked to appear before the National Security and Defence Committee. Since they did not appear before that committee, I am certain that the government will want to conduct further investigations.

**Senator Cochrane:** That is good news. Perhaps we will then follow through with Senator Angus' request yesterday about an inquiry into this whole issue. I am certainly looking forward to that response.

What assurances can the minister give to Canadians that it is our government and not the Hell's Angels or other crime organizations that are in control of our ports? This is what the report is saying.

**Senator Carstairs:** With the greatest of respect, I do not think the report went quite that far. Clearly, we do have a port authority structure in Canada. That port authority is an independent structure. It has obligations to ensure proper security, and the Government of Canada has the responsibility to ensure that it is doing its job effectively.

## FOREIGN AFFAIRS

### UNITED STATES—WEAPONS IN SPACE

**Hon. Douglas Roche:** Honourable senators, my question is to the Leader of the Government in the Senate. What is the government doing to resolve the conflict between the Department of Foreign Affairs and International Trade on the one hand and the Department of National Defence on the other, on the issue of the United States putting weapons into space?

The Department of National Defence wants to cooperate with the Pentagon plans to put laser guns and other weapons into orbit. The Department of Foreign Affairs says Canada will tell the Americans that we are against the weaponization of space. Who will resolve this interdepartmental conflict so that Canada's long-standing policy opposing the weaponization of space remains firm?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, quite frankly, I do not see the same conflict that the honourable senator seems to feel exists between two government departments. It is clear who speaks on international policy, including our relationship with the United States, and that is the Department of Foreign Affairs.

As to individual members in the defence establishment who may wish to move to a policy of more weaponization, the policy of the Canadian government is very clear. Under our auspices and under our agreement, there will be no weapons in space.

**Senator Roche:** That answer is certainly welcome, namely, that the Canadian government will speak with one voice in upholding the policy it has held to oppose the weaponization of space — a policy of some 30 years, irrespective of who was in power at any given moment.

●(1400)

The United States has given notice of its forthcoming withdrawal from the Anti-Ballistic Missile Treaty in order to pursue the development of its National Missile Defence system. This system is, as any check of Pentagon Web site material shows, the first step in the weaponization of space. Is the Canadian government now studying this issue carefully so that it will understand that any Canadian support for a national missile defence system will violate Canada's long-standing policy against weaponization of space?



**Senator Carstairs:** As the honourable senator has indicated, the Canadian government has a policy of some 30 years' standing. It has no intention of changing that policy. Further, through the Conference on Disarmament, the Canadian government is continuing to make efforts to secure a multilateral agreement banning space-based weapons.

## HILL PRECINCT

### TEMPORARY STRUCTURES

**Hon. Laurier L. LaPierre:** Honourable senators, my question is directed to the Leader of the Government in the Senate. I believe that the security measures and the abuse of the privacy of our cars is an abuse of power. It is totally unnecessary; consequently, it is a make-work program. However, I do not want to talk about that today. I do want to talk about the ugly, atrocious building that is now being built on sacred land that belonged to the Algonquin centuries ago. The building will be ugly and it will deform the dignity of the sacred precinct. Therefore, I want to know whether the minister could use her immense power to have this building torn down and replaced by a nicer one. While she is at it, could she please ask that a john be built inside the building and remove the outhouse that is there.

**Hon. Sharon Carstairs (Leader of the Government):** I am in agreement and disagreement with the honourable senator's question. I am in total agreement that it is a rather ugly structure, and I am in disagreement about the so-called immense power that I am supposed to have.

However, I do want honourable senators to know that the building is a temporary structure. Developments and discussions are ongoing as to how we can best meet the security needs on the Hill without blighting the architecture of this wonderful set of buildings that we are all privileged to spend much of our daily lives in.

## JUSTICE

### UNITED STATES DEPARTMENT OF STATE REPORT ON MONEY LAUNDERING

**Hon. W. David Angus:** Honourable senators, my question concerns a U.S. State Department report, released earlier this month, that once again puts Canada in an embarrassing and very negative light as a "major money laundering country" appearing on a list of nations of primary concern for money laundering.

Yesterday's *Ottawa Citizen* ran a lead story on page 1, under the headline "Illicit cash pours over border: U.S. names Canada 'major money laundering country'." It went on to say:

In its latest annual report on the international drug trade and suspicious money, the State Department says the U.S. is worried about the movement of large sums of cash across the border.

"Canada remains vulnerable to money laundering because of its advanced financial services sector and heavy

cross-border flow of currency and monetary instruments," says the department's International Narcotics Control Strategy Report.

In spite of the legislation we passed in 2000, our nation remains on this list, a list that includes countries like Switzerland, with its secret banking system, and the Cayman Islands and other similar tax havens. Of particular concern is laundering of monies earned through the drug trade that allegedly are being used to finance terrorist activities at an international level.

Honourable senators, I am asking the Leader of the Government to please indicate whether the government has looked at the U.S. State Department's report, and if so, could she advise as to how, in spite of the legislative initiatives of the past few years, Canada is still being regarded as a country of primary concern for money laundering.

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his question. As he well knows, there are statistical gathering measures, most particularly in the United States. Sometimes their data is based on a period of time — between the reporting and the actual publication of that data — in which legislative changes have taken place.

I should like to think this is an example, that since the gathering of the data and the issuance of the report, we have made significant changes, not only with the money laundering bill itself but also with the changes to the anti-terrorism bill.

I will, however, make sure that the United States, through the Department of Foreign Affairs, is made aware of these changes in legislation, and hopefully the department can deal with any concerns that they have in the United States. It is all too true, unfortunately, that sometimes our American brothers and sisters like to find problems outside of their country without examining whether they have the same problems within.

**Hon. Edward M. Lawson:** One of the other countries that the United States has designated as a country of concern for money laundering is the United States itself.

**Senator Angus:** There, you have it.

Honourable senators, I am sure we are all reassured by the response of the Leader of the Government. I am sure that she, as well as all of us, is still very offended when we see headlines stating that Canada is one of the leading money laundering countries.

If the honourable leader is saying that the U.S. State Department report is wrong and it is out of date — and I hope she is right — that is one thing, but the report notes that the Canadian government has not yet implemented the regulations that define cross-border currency movements, nor is FINTRAC a member of the Egmont Group, which would allow it to exchange information with its foreign counterparts. Why is this, if indeed it is so? Why is Canada dragging its feet? When will the government implement these regulations, and when will FINTRAC join the Egmont group?

**Senator Carstairs:** The honourable senator has put very specific and detailed questions before the chamber. Obviously, I do not have that kind of information available. However, I will obtain it, and we will file it as a delayed answer as soon as possible.

[Translation]

FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED  
LINGUISTIC RIGHTS—INTENTIONS OF GOVERNMENT

**Hon. Jean-Robert Gauthier:** Honourable senators, my question is for the Leader of the Government in the Senate. It is a bit repetitive, but important. On March 23, 2001, Justice Pierre Blais brought down a judgment that addresses the matter of contraventions issued on federal territory, under agreements with the provinces. Six provinces were involved: Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and Prince Edward Island.

Yesterday a Finance Department legal counsel said that they had received a letter from Ontario indicating that Ontario could not apply the Blais judgment and thus could not comply with Justice Blais' decision. Quoting from the Blais decision:

...if any, the respondents shall, within no more than one year from the date of this order, ensure that the said agreements are amended to comply with the order. Upon the expiry of that time, if the agreements have not been amended, they will become void.

The word is "they," plural. All agreements with the provinces will become void. Could the minister tell us what will happen if they do?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** First, the honourable senator knows that they are in effect until March 23, 2002, because the judge gave that one-year grace period. It will not surprise the honourable senator to learn that I asked for an update on this file this morning, since I can see March 23 looming just as quickly as he can see March 23, 2002, looming. I hope to have an answer for him and for this chamber shortly.

● (1410)

**Senator Gauthier:** Honourable senators, this is an important question dealing with airports, maritime law and all properties that are in federal jurisdiction. I would like the government to please tell us if we are returning to the old system or will something different be done?

**Senator Carstairs:** That is exactly why I asked my staff this morning if we had an update on this policy. I will continue to try to get this policy announced sooner rather than later.

[Translation]

DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table

in the House two delayed answers. The first one is in response to a question raised in the Senate on February 5, 2000, by Senator Robertson regarding competition in United States with Chilean salmon; the second one is in response to a question raised in the Senate on February 5, 2002, by Senator Kinsella, regarding National Defence.

FISHERIES AND OCEANS

ATLANTIC SALMON FISH FARM INDUSTRY—COMPETITION IN  
UNITED STATES WITH CHILEAN SALMON

(Response to question raised by Hon. Brenda M. Robertson on February 5, 2002)

Fisheries and Oceans Canada is working with other federal departments and the aquaculture industry to explore the full range of options that may be available to assist concerned salmon producers during this particularly challenging period in the global market place. Specifically, the Atlantic Canada Opportunities Agency government is reviewing an interim financial assistance package that has been proposed by the industry. The package involves either the deferral of current loans or issuing bridge loans to finance potential losses. In addition to the Minister of State for ACOA, the Minister of Fisheries and Oceans has met separately with industry on this matter and will examine this option in a broader federal context.

NATIONAL DEFENCE

WAR IN AFGHANISTAN—ASSURANCE THAT PRISONERS TURNED  
OVER TO UNITED STATES NOT FACE CAPITAL PUNISHMENT

(Response to question raised by Hon. Noël A. Kinsella on February 5, 2002)

International law, including the Geneva Conventions, does not preclude the use of the death penalty. It does provide for legal safeguards for the accused.

The CF deploys worldwide in a variety of countries that retain the death penalty and other punishments not found in Canadian law. If Canada were to adopt a position that it could not transfer detainees to such countries, the CF would likely not be able to participate in most international missions, including UN-sanctioned missions.

For the protection of its citizens and for broader international security goals, Canada must be able to operate in and with countries that do not have the same domestic legal norms, but that do meet the international standards for the trial and punishment of offenders. Canada will transfer detainees to countries that meet those international standards.



International law allows the transfer of detainees to other national authorities. Canada will continue to meet all legal requirements regarding the transfer of detainees.

In this Coalition operation, the authority responsible for the long-term treatment and security of detainees is the United States. The United States has assured Canada that detainees are being treated in accordance with the principles of the Geneva Convention. Canada welcomes this commitment.

Canada remains strongly committed to the fight against terrorism. Everything possible must be done to bring Al Qaeda and those responsible for the September 11th events to justice.

[English]

## ORDERS OF THE DAY

### ROYAL ASSENT BILL

#### THIRD READING—DEBATE ADJOURNED

**Hon. Sharon Carstairs (Leader of the Government)** moved the third reading of Bill S-34, respecting royal assent to bills passed by the Houses of Parliament.

She said: Honourable senators, I rise today to speak at third reading to Bill S-34. I would like to begin by thanking the Standing Committee on Rules, Procedures and the Rights of Parliament for the excellent discussion of the issues that took place between committee members and with witnesses before the committee on items of discussion generated by this bill.

As the sponsor of the bill, I was pleased to appear before the committee as a witness. The committee also heard from Mary E. Dawson and Louis Davis from Justice Canada, Mr. John Aimers and Mr. Paul Benoît from the Monarchist League of Canada, and Dr. David Smith from the University of Saskatchewan.

The committee met 21 times to discuss this bill. That will give you an indication of how serious and dedicated the members of this committee were, and I would like to thank and congratulate honourable senators for their dedication and effort.

Honourable senators, this bill aims to modernize the Royal Assent process by allowing Royal Assent through written declaration. At the same time, this bill preserves the traditional ceremony by requiring its use at least twice per calendar year, including the first appropriation bill of each session. The process of written declaration brings Canada on side with the rest of the Commonwealth countries, as Canada has been the only Commonwealth country, for quite some time now, to continue with the traditional form of the ceremony exclusively.

The provisions in this bill are of a procedural nature and relate solely to the process of signifying royal assent. The traditional ceremony and proposed written declaration both recognize the convention that the Crown, the Senate and the House of Commons, the three elements that comprise our Parliament, be included in the process of Royal Assent.

The Governor General or one of her deputies will still exercise the prerogative of assent, but the manner in which assent will be granted will be expanded. There will be the option of having Royal Assent signified in the Senate by way of the ceremony with which we are all familiar, and we will also have the option for Royal Assent to be signified by written declaration, which will then be communicated to both Houses.

Some have expressed some concern that we are quietly doing away with one of the important ceremonies that takes place in the Senate and is an educational tool for the public. Honourable senators, I think we must be realistic. The attendance of honourable senators and members of the House of Commons for Royal Assent ceremonies in this chamber has declined significantly over the years.

I concede that Royal Assent ceremonies are often hastily organized at the last minute. However, I have undertaken, along with my colleague, the Honourable Ralph Goodale, the Leader of the Government in the other place, to plan the traditional Royal Assent ceremonies in advance, thereby ensuring the ceremonies that do occur are both well respected and well attended by senators, members of the House of Commons, and the public.

We have demonstrated that by taking creative new approaches we can improve attendance on occasion, as we saw in the last Royal Assent ceremony held on February 18, 2002, when 60 honourable senators were present in this chamber and approximately 30 members of Parliament, including at least four cabinet ministers, attended behind the bar.

Others have expressed the hope that we may see the Governor General here for Royal Assent more often. I know honourable senators fully realize that neither this chamber nor the other place has the authority to require the Governor General's appearance. That is true under this bill, just as it is true without this bill. However, since we will be able to give more advance warning of the formal ceremony, I am hopeful that the presence of the Governor General will be made much easier.

It will be 19 years this April since Senator Royce Frith, then Deputy Leader of the Government, tabled a notice of inquiry calling the attention of the Senate to the advisability of establishing alternate procedures for the pronouncement of Royal Assent to bills. It has been 15 years since the Special Committee on the Reform of the House of Commons, the McGrath committee, dealt with the issue of Royal Assent in its second report. It will be 15 years this November since the then Standing Committee on Privileges, Standing Rules and Orders, chaired by the late Senator Gildas Molgat, tabled its fourth report calling for changes to the Royal Assent procedure, strikingly similar to those that we see before us today.



Our honourable colleague Senator Murray introduced S-19 in July 1988 also along the same theme of the bill before us today. The Leader of the Opposition, Senator Lynch-Staunton, tabled Bills S-15, Bill S-7 and Bill S-13 during the past few years, all of which concerned Royal Assent. With a few minor changes, those bills were very similar to the bill currently before us.

Honourable senators, it has taken almost 20 years of true sober second thought, but it would seem we are now ready to move on with much needed adjustment to our process of Royal Assent. The bill the committee has returned to us is a very good product, and I encourage all honourable senators to support the bill as it now stands before us. Let us modernize this important ceremony so that it is used when most appropriate and when attendance will be the greatest. By doing that we will preserve and hopefully enhance the prestige and importance of this important ceremony. I encourage all honourable senators to support this bill.

**Hon. Marcel Prud'homme:** As the honourable senator is aware, I am not a member of this committee, nor for that matter any committee. However, I attended some committee sessions. I attended the meeting at which the Leader of the Government was present. I made suggestions during that meeting that appear to have been incorporated. Would the honourable senator kindly explain my concerns regarding the wording of the bill and how the redrafting will address the objection that I had raised at that time?

**Senator Carstairs:** Perhaps I can indicate the objection made by the honourable senator at that meeting. The bill requires in clause 5 that a message be sent to the House when written Royal Assent has been used. The honourable senator asked the very thoughtful question of what would occur should the house not be sitting. If we had a Royal Assent ceremony in late June, and the House did not sit until September, would Royal Assent then be deemed to be in force and effect?

The response is that we will have to sit in order to receive the message that Royal Assent has been given, unless of course we want it to be deferred for several months. Logic would tell us that we would not want to defer, particularly as the last bill of the session is usually an appropriation bill, and obviously the government would want Royal Assent right away. Therefore, it will be necessary to continue with other business before the chamber, to have written Royal Assent and then an announcement to that effect, while the chamber is in session.

● (1420)

**Hon. Laurier L. LaPierre:** Is the honourable senator aware that if this proposed system does not work it will be a total, degrading failure for this house, and an insult to the Canadian people?

If we are to change this ceremony, it must then be held on an occasion of national importance. It must be scheduled well in advance; it must be televised; this place must be filled and the galleries filled with students of various kinds for it to have any value whatsoever. Is the honourable senator aware that if the ceremony does not have significant national value it will be an

insult to our government, to the process and especially to this chamber, which will be held responsible for its failure?

**Senator Carstairs:** Each and every one of us has an obligation to ensure that when we are holding the formal ceremony, it is a success. That is why, when the committee was meeting, Minister Goodale and I signed a letter to the committee, which has been subsequently tabled with the chamber, indicating that a number of things must take place in order to ensure that the proposed Royal Assent ceremony takes on the seriousness which we believe this particular occasion warrants. We are of the opinion that advance notice is one of those, and we are trying to plan for a Royal Assent ceremony on or about March 20. We hope to be able to give notice next week so that there will be time for people to make their plans.

At that point, I would also be looking to make a motion before the Senate, asking for permission to televise this event. In the past, the process has often been that we gave notice of Royal Assent in the afternoon then held it an hour or an hour and a half later. Thus it has not been possible to televise that particular ceremony. By providing ample notice, we should be able to make that happen.

Another suggestion has been made by Senator Poulin which I think is excellent, and I am hoping to put it in place with the help of my colleagues on the other side. Senator Poulin suggested that we might hold a conference between two members of this chamber — one from this side and one from the other side — to explain to the public watching on the television exactly what bills are being given Royal Assent and what is contained in those bills, such that it will become an educational exercise. I do not think that will be possible for this next Royal Assent, but it is something which I have taken under advisement, and I know it is supported by the Leader of the Opposition.

On motion of Senator Stratton, for Senator Lynch-Staunton, debate adjourned.

## COURTS ADMINISTRATION SERVICE BILL

### SECOND READING

**Hon. John G. Bryden** moved second reading of Bill C-30, to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

He said: Honourable senators, it is my pleasure to rise to introduce second reading debate on Bill C-30, the Courts Administration Service Bill. This is a complex bill, but its objective is straightforward: to improve the efficiency and effectiveness of the Federal Court of Canada and the Tax Court of Canada through structural changes to those courts. Nothing in the bill is intended to change the existing jurisdiction of either court. These amendments are aimed at administrative improvements only.

[ Senator Carstairs ]

There are three basic elements to the bill: One, the bill would consolidate the current administrative services of the two courts in a new body to be called courts administrative service; two, it would separate the existing Federal Court Trial Division and the Federal Court of Appeal into two distinct courts managed by two separate chief justices; three, it would confer superior court status on the Tax Court of Canada.

The bill comprises 199 clauses. The bulk of the substantive amendments dealing with each of the three aspects described above are found in the first three sections of the bill, as follows:

Clauses 1 to 12 deal with the establishment of the Courts administrative service.

Clauses 13 to 58 contain amendments to the Federal Court Act, the large majority of which result from the creation of a separate Court of Appeal. These clauses also include consequential amendments relating to other aspects of the reform.

Clauses 59 to 81 are amendments to the Tax Court of Canada Act and largely deal with the establishment of the Tax Court of Canada as a Superior Court. These clauses also contain consequential amendments resulting from the other two aspects of the reform. I will touch briefly on each of the three elements I have outlined.

At present, the Federal Court and the Tax Court each have separate bodies, known as registries, that provide administrative services to the particular court. These services include corporate services such as the managing of the facilities of the courts, human resources, information technology, finance, library, security, and publications. These registry activities involve registry officers who advise and help litigants on court procedure, maintain court records and provide administrative support to the judges. Finally, the services include direct support to the judiciary through law clerks and judicial assistants.

This bill was drafted in response to certain concerns about this arrangement raised by the Auditor General in April of 1997. At the request of the Minister of Justice, the Auditor General had conducted a first-ever audit of the Federal Court and the Tax Court. He concluded that there were extensive savings that could be realized if the registry of the two courts were consolidated.

That is what Bill C-30 would do. It would establish a new courts administrative service that would provide administrative support to the Federal Court, the Federal Court of Appeal, the Tax Court, and also the Court Martial Appeal Court. It should be noted that the Court Martial Appeal Court uses Federal Court judges and draws on the services of the officers, clerks and employees of the Federal Court.

This new service would be headed by a chief administrator appointed by the Governor in Council after consultation with the Minister of Justice and with the chief justices of each of the four courts. The term of office is five years, but the chief administrator may be reappointed to the position. Any reappointment and any termination of the chief administrator's

appointment also requires consultation with the chief justices of the four courts.

As many of us in this chamber are very well aware, the principle of judicial independence is critical under our Constitution. The Supreme Court of Canada has noted that:

It is generally agreed that judicial independence involves both individual and institutional relationships: the individual independence of a judge, as reflected in such matters as security of tenure, and the institutional independence of the court or tribunal over which he or she presides, as reflected in its institutional or administrative relationships to the executive and legislative branches of government.

That is from *Valente v. The Queen*.

Nothing in Bill C-30 affects the individual independence of the judge. The issue, rather, is the institutional independence of the courts in question, thus ensuring that the judiciary retains control over matters that touch directly on the judicial function.

•(1430)

Bill C-30 works to ensure this in several ways. Clause 8(1) of the bill would specifically provide that the Chief Justices "...are responsible for the judicial functions of their courts, including the direction and supervision over court sittings and the assignment of judicial duties."

Clause 8(2) enumerates examples of those powers, including the power to determine the sittings of the court, assign judges to the sittings, assign cases and other judicial duties to the judges, determine the sitting schedules and the workload of the judges, and prepare hearing lists.

By contrast, the powers of the Chief Administrator are set out in clause 7(1) and clause 7(2) states:

The Chief Administrator has all the powers necessary for the overall effective and efficient management and administration of all court services, including court facilities and libraries and corporate services and staffing.

Clause 7(3) outlines the duties and functions of the Chief Administrator where it states:

The Chief Administrator, in consultation with the Chief Justices of the Federal Court of Appeal, the Federal Court, Court Martial Appeal Court and the Tax Court of Canada, shall establish and maintain the registry or registries of those courts in any organizational form or forms and prepare budgetary submissions for the requirements of those courts and for the related needs of the Service.

It is anticipated that there will be strong collaborative partnership between the new chief administrator and the Chief Justice. However, and this is very important, in the event there is a disagreement on an aspect of court administration, the bill is very clear: the judiciary retains control. To this end, clause 9(1) states:



A chief justice may issue binding directions in writing to the Chief Administrator with respect to any matter within the Chief Administrator's authority.

The Courts administration service will be at arm's length from the government to ensure the appropriate independence of the courts. However, Bill C-30 is careful to provide for accountability, especially to Parliament, for both the administrative effectiveness and also with respect to the use of public resources.

Clause 12(1) would require the chief administrator to send an annual report to the Minister of Justice on the activities of the service for the year, and the minister is then required to lay a copy of the report before each House of Parliament.

The model reflected in Bill C-30 was developed in close collaboration with the Federal Court, the Tax Court and the Court Martial Appeal Court. The advice and views of the Chief Justices were sought throughout the process on both the overall structure and its technical implementation. The courts were actively involved both to ensure that judicial independence is respected and upheld in the proposed structure, and also to ensure that the Canadian public continues to be well served and to receive the highest quality of justice we expect from these courts. Indeed, the proposed new court administration service enjoys the full support and commitment of the four courts.

Honourable senators, as I said before, the bill is in part a response to the recommendation of the Auditor General in his report of April 1997. I want to mention one recommendation the Auditor General made that was not accepted. In his 1997 report, the Auditor General also recommended the complete merger of the judicial functions of the Federal Court and the Tax Court. This was, as he noted in the report, "the most contentious issue" that he had reviewed. It was strongly opposed by the judges of the Tax Court and by the tax lawyers. In the end, this recommendation was not accepted by the government and is not reflected in Bill C-30. Instead, the administration functions only of the courts would be merged.

I am pleased to advise honourable senators that following the introduction of the former Bill C-40, the predecessor of Bill C-30 — and they are virtually identical — the then Auditor General expressed his support for the approach taken by the government. In a letter to the Minister of Justice dated June 26, 2000, the former Auditor General wrote:

We are pleased that the proposed legislation reflects the key recommendations of our April 1997 report to the Minister of Justice. With proper implementation the proposed measures should significantly improve the efficiency and accountability and the administrative services provided to the courts while maintaining the independence of the judicial function.

The second main element of the bill is the formal separation of the current Federal Court Trial Division and the Federal Court of Appeal. The purpose is to clarify the roles of respective Chief

Justices of these courts and to ensure that each court can be managed most efficiently.

Right now, the Chief Justice of the Federal Court is responsible for the overall management of both the Trial Division and the Court of Appeal. Bill C-30 would create two separate courts — the same structure that is the usual one for most provincial superior courts. The current Chief Justice would continue to be responsible for the Federal Court of Appeal but would not be responsible any longer for management of the Trial Court. The current Associate Chief Justice would become the Chief Justice of the Trial Court with overall management responsibility for that court. The Chief Justice of the Federal Court of Appeal would continue, as now, in a place of precedence at the top of that structure. This is also the norm in the provincial superior courts.

The final main reform in Bill C-30 is to confer on the Tax Court of Canada the status of the superior court. This is intended to establish the Tax Court as a full and equal partner with the other three courts in the newly consolidated administration. This change of status is not intended to make any substantive change to the jurisdiction or remedial powers of the court. Honourable senators may note that the proposed sections 19.1 and 19.2 of the Tax Court of Canada Act appear to confer additional jurisdictions upon the court. For example, with respect to contempt, *ex facie* or outside the court, vexatious proceedings and constitutional questions, these are, in fact, not enhanced jurisdictional powers. They merely codify certain jurisdictions that the Tax Court has been exercising and exercises now at common law.

I should also add that this superior court status would not result in any additional costs. Judges of the Tax Court already receive the same salaries and benefits as superior court judges.

Honourable senators, I believe that Bill C-30 represents a strong model for effective, efficient court administration, and I invite you to join me in supporting the bill.

**Hon. Lowell Murray:** May I ask the honourable senator several questions?

**Senator Bryden:** Yes. How many?

**Senator Murray:** I would not want my honourable friend to miss his plane, so he can let me know if I am impinging on his schedule.

Has the government given my honourable colleague a note in respect of the extent of the savings that will be realized once Bill C-30 is passed?

**Senator Bryden:** I thank the honourable senator for his question. The government has not provided me with that information. If the figures are available, we would deal with that at committee, I am sure.

**Senator Murray:** Can the honourable senator say with certainty that there will be fewer person-years involved in these overall activities as a result of this bill?



**Senator Bryden:** No, I cannot say that.

**Senator Murray:** I do not quite understand what the problem is that the government is trying to remedy by raising the Tax Court to the status of a superior court.

**Senator Bryden:** Honourable senators, the purpose is to put the Tax Court at the same level as the other courts of particular jurisdiction, which would include the Federal Trial Court and the Federal Court of Appeal. All of these courts are statutory courts that get their jurisdictions from individual acts that they administer in certain regards, whether it is the Tax Act or whatever. It is intended to ensure that it is a fully equal partner with the other courts that will be supported by this new service.

• (1440)

I anticipated this question, so I have this answer prepared.

It will promote the cooperative and collaborative approach to consolidated services and shared facility that was identified by the Auditor General. He wanted to pull the Tax Court into the Federal Court. That was said not to be advisable. Instead, this bill would put them under at least the same administrative umbrella. It would be an important precondition to achieving efficiencies and ensuring effectiveness in the court's administration. It will not involve any change in the jurisdiction of the Tax Court, nor will it increase any of the costs since the members are already currently compensated at the same level as Superior Court judges.

One other thing might be helpful. It is worth noting that with the amalgamation of district and county courts in various provinces with superior courts across Canada, the Tax Court now has the only remaining federally appointed judges without superior court status. There are no new rights or responsibilities. It is to bring them under the same umbrella as all federally appointed judges.

**Senator Murray:** I appreciate that answer. In the case of the chief administrator, I followed the sponsor of the bill quite carefully, and I take it that in extremis, the Chief Justice may issue a written instruction to the chief administrator if there has been a disagreement between the two. However, as a matter of practice, to whom will the chief administrator report on a day-to-day basis? Is it to the minister, the Department of Justice, or is it to one or other or all of the Chief Justices?

**Senator Bryden:** I believe, having read the bill, that the chief administrator is intended to be a quasi-independent person who is accountable through the Minister of Justice to Parliament. He does not report to the Minister of Justice. He files a report with the Minister of Justice once a year, that the Minister of Justice would place before Parliament.

The ability to direct the chief administrator statutorily is in the hands of the Chief Justice, if it comes to that. The ability to appoint or reappoint is done by Order-in-Council on the recommendation of the Minister of Justice, but only after consultation in either appointment or reappointment, or indeed

termination and not reappointment, with each of the Chief Justices of each of the four courts.

**Hon. Pierre Claude Nolin:** Honourable senators, clause 2(b) of the bill reads:

2. The purposes of this Act are to

(b) enhance judicial independence by placing administrative services at arm's length from the Government of Canada and by affirming the roles of chief justices and judges in the management of the courts; and

Why did the government decide to stop at that limited list of courts? Why not include other bodies of the federal government that are daily charged with dealing with rights and responsibilities and granting decisions that affect the rights of individuals in this country?

**Senator Bryden:** This act was designed to deal with the administration of these four courts and to set up a single administrative structure instead of the three separate registries, since the Federal Court acts for the martial one. It was not designed to be a general bill dealing with any judicial or quasi-judicial body appointed by the federal government. It is designed to do what it is outlined to do, that is, to provide for the administrative functioning and support to these four Federal Courts.

**Senator Nolin:** As the sponsor of this bill in the Senate, do you not think that those bodies need to have their independence protected by the law?

**Senator Bryden:** Yes, but the purpose of this bill, as I understand it, is not to protect the independence of every federal body that exists. It is to deal with these four courts. I do not know, because I have not looked, whether the other bodies to which the honourable senator is referring have their independence protected in their own acts or wherever, but this is a bill that is limited to the coordination of the services provided to these four courts.

On motion of Senator Beaudoin, debate adjourned.

## PAYMENT CLEARING AND SETTLEMENT ACT

BILL TO AMEND—SECOND READING—DEBATE ADJOURNED

**Hon. George J. Furey** moved the second reading of Bill S-40, to amend the Payment Clearing and Settlement Act.

He said: Honourable senators, I take this opportunity to present Bill S-40 for second reading today.

This bill amends the Payment Clearing and Settlement Act to provide Canadian securities and derivatives clearing houses with legal protections in the event that one of their members becomes insolvent or declares bankruptcy. Such change will bring us in line with the United States and other G7 countries.

Before discussing the bill further, I should like to provide some background that may be of assistance in helping put the legislation in context. As honourable senators know, one of the government's long-term economic goals is to achieve a strong economy, and one that is internationally competitive. An efficient and strong financial sector is a key requirement for achieving those aims.

Securities and derivatives exchanges and their clearing houses are central to the financial sector and, indeed, to the overall economy. They play an important role in the raising of capital for investments in the Canadian economy and in minimizing and hedging risks in the financial and agricultural sectors.

Canada's securities and derivatives clearing houses provide centralized facilities for the clearing and settlement of trades on our four exchanges. These clearing houses are among the most efficient in the world, enabling customers and businesses to buy and sell securities and derivatives and to have these transactions settled in a timely manner at a reasonable cost.

The amendment to Bill S-40 will expand the scope of the Payment Clearing and Settlement Act to include protection for the netting agreements of our securities and derivatives clearing houses, as well as protection for collateral posted by their members. Without these changes, more securities and derivatives trading will occur outside of Canada and principally in the United States.

•(1450)

Honourable senators, I should like to take a moment to comment on the terms "netting" and "collateral." Essentially, "netting" means that if a member of a clearing house, for example, had bought a security for \$1,000 and sold another for \$900, that member's net obligation to the clearing house is \$100. Netting is a powerful way to significantly reduce the net payment and delivery obligations of members of the clearing house. In some cases it can be as high as 50-fold.

In general terms, "collateral" means an asset, whether a cash deposit or the transfer or pledge of a security provided to a creditor or, in this case, to securities and derivatives clearing houses. Collateral would be posted with the clearing house and would fully or partially offset a member's payment or delivery obligations to the clearing house.

The Canadian securities and derivatives industry is a key player in Canada's financial system as it provides a mechanism for raising capital, channelling savings into investments, and minimizing and hedging risks through derivative contracts.

The size of the industry is significant. In the year 2000, for example, there were over 190 securities and derivatives firms in Canada, employing approximately 36,000 people.

There are, as honourable senators know, four exchanges in Canada for securities and derivatives trades, which clear and settle through three clearing houses. Securities and derivatives are traded on the Toronto Stock Exchange, TSE, for senior equities; the Bourse de Montréal for all non-commodity

derivatives trading; the Canadian Venture Exchange in Calgary for junior equities; and the Winnipeg Commodity Exchange for commodity derivatives.

The clearing and settlement of securities and derivatives trades is done through three clearing organizations: the Canadian Derivatives Clearing Corporation, the Canadian Depository for Securities, and the Winnipeg Commodity Exchange Clearing Corporation.

Securities and derivatives clearing houses are a critical feature to the efficient operation of securities and derivatives markets. They are important for three main reasons. First, securities and derivatives markets rely on the efficient and timely clearing and settlement of transactions to lower transaction costs. Second, clearing houses are critical to securities and derivatives markets in that they provide opportunities to raise capital for investments, and they also help to hedge financial risks. Third, clearing houses are essential for reducing settlement risk in the securities and derivatives market.

The centralization of clearing and settlement services within a clearing house helps achieve those objectives. Any factors that negatively affect their operation and increase their costs will impact on securities and derivatives markets by reducing their efficiency by increasing trading costs.

A serious potential cost to clearing houses lies in the risk that a member may default before a transaction is settled, which would result in financial loss to the clearing house and ultimately, to its members. Because of this, securities and derivatives clearing houses require members to post collateral, usually in the form of securities, and to net their payment and delivery obligations with the clearing house. These risk-reducing measures are critical to the efficient operation and competitiveness of Canadian securities and derivatives clearing houses with clearing houses in other countries, particularly those in the United States.

It has recently become apparent that changes are required to help Canadian securities and derivatives clearing houses be competitive internationally. Without these changes, more securities and derivatives trading will occur outside of Canada, principally in the United States.

Current Canadian bankruptcy and insolvency laws, which include the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and the Winding-up and Restructuring Act, do not protect netting agreements with clearing houses to the same extent as they do in other countries. For example, these statutes do not prevent stays imposed by a court on the ability of securities and derivatives clearing houses to realize collateral in the case of a bankruptcy or insolvency of one of its members. Stakeholders have raised this concern.

The Bourse de Montréal, on behalf of the Canadian Derivatives Clearing Corporation, along with the WCE Clearing Corporation and the Canadian Depository for Securities have all asked that the Payment Clearing and Settlement Act be amended to cover securities and derivatives clearing houses.



These stakeholders have expressed the importance of Canadian bankruptcy and insolvency laws from lowering settlement risks to their clearing houses and their members. That is, they encourage changing the laws to ensure they will be spared from the added costs that result from poor bankruptcy protection — a solution easily achieved by making the necessary changes to the Payment Clearing and Settlement Act. The proposed changes will allow them to lower their costs, to be more efficient, and to compete on level terms with the United States and other G7 countries.

Honourable senators, it may be instructive to take a moment to look at how the system in other countries operates. In the United States, for example, bankruptcy and insolvency legislation generally exempts securities clearing organizations from court-ordered stays and allows them to net the obligations of members and to realize on their members' collateral.

The current law hinders our competitiveness with the United States. A great deal of Canadian securities and derivatives trading occurs on their exchanges because of the potential risks one faces due to the lack of protection in Canadian bankruptcy and insolvency legislation.

The Canadian industry needs to have a competitive legal regime so that it can keep more trading activity in Canada. However, it is difficult to attract large international dealers if Canadian clearing houses face higher costs as a result of their inability to enforce their netting and collateral agreements with their members, or because they present greater risks to their participants in the event of insolvency of one or more members.

In Europe, the 1998 Settlement Finality Directive established a legal framework for payment and security settlements systems in countries in the European Union. This directive requires member states to ensure that security settlement systems can net obligations, and it ensures that the netting is legally enforceable and binding on third parties, even in the event of insolvency proceedings. It also allows collateral security to be realized expeditiously in any winding-up procedure. This means that collateral security will be insulated from the effects of insolvency and can be realized to the benefit of the claimants. Given how our competitors function, it is imperative that changes be made to ensure that Canadian securities and derivatives clearing houses can compete with those in the United States and Europe.

Honourable senators, it is also important to take into account the position of the Bank for International Settlements on this issue. The BIS is an international organization that fosters cooperation among central banks and other agencies in pursuit of monetary and financial stability. It has become an important forum for international monetary and financial cooperation between central bankers and increasingly for other regulators and supervisors.

The work of the BIS has contributed to the setting of standards, codes and best practices that are deemed essential for strengthening the financial architecture worldwide. In November 2001, the BIS and the International Organization of

Securities Commissions made recommendations about security settlement systems, including securities clearing houses.

•(1500)

A central recommendation is that these systems have a well-founded legal basis so that their rules and procedures can be enforced with a high degree of certainty. This includes the enforceability of transactions, netting arrangements, and the liquidation of assets pledged or transferred as collateral.

These issues are addressed in Bill S-40. The amendments in this bill protect netting arrangements and prevent stays imposed by a court on the ability of securities and derivatives clearing houses to realize collateral in case of bankruptcy or insolvency of one of its members.

In conclusion, honourable senators, I should like to leave you with the following considerations. As mentioned earlier, securities and derivatives clearing houses are a critical element in the efficient operation of our financial markets. Their efficient operation lowers the cost of securities and derivatives trades, thereby making our markets more efficient, less costly and better able to fulfil their role in providing access to capital, channelling savings into investments, and minimizing and hedging risks in the financial and agricultural sectors.

An important risk faced by securities and derivatives clearing houses is that one of their members may default before a transaction is completed and settled. As honourable senators know, these clearing houses take measures to reduce this risk by requiring members to post collateral and to net their operations with the clearing house. However, without a competitive legal regime, Canadian securities and derivatives transactions may continue to migrate to other countries, in particular the United States.

An important component of Canadian securities and derivatives trading occurs on exchanges in the United States. The Canadian industry would like to retain trading in Canada and attract international dealers and brokers. The amendments in this bill will help to ensure that this happens.

Honourable senators, it should be noted that these changes are in keeping with a commitment made by the government in the Speech from the Throne in January 2001, to keep Canadian laws and regulations competitive.

In addition, in considering this bill, I urge honourable senators to keep in mind the following two points: first, that these changes are in line with recommendations by the Bank for International Settlements and the International Organization of Securities Commissions regarding securities settlement systems; and, second, that they are supported in Canada by financial sector participants and their associations, by provincial governments and by the insolvency community.

For these reasons, honourable senators, I urge you to support the passage of this legislation without delay.

On motion of Senator Stratton, for Senator Angus, debate adjourned.



[Translation]

## LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Serge Joyal** moved the second reading of Bill S-41, to re-enact legislative instruments enacted in only one official language.

He said: Honourable senators, the title of Bill S-41 may cause a bit of a stir among some. The title reads as follows: An Act to re-enact legislative instruments enacted in only one official language.

The title, honourable senators, refers us immediately to the issue of linguistic rights. The Senate Standing Committee on Legal and Constitutional Affairs is in the process of debating a bill, which was referred to us by the House of Commons and which raises important issues related to the protection and the recognition of linguistic rights.

Bill S-41 is obviously not something that was pulled out of a hat. It does come from somewhere, and I will attempt to remind you of its origins and scope.

The Supreme Court of Canada, in the *Mercure* case in 1995, confirmed that linguistic rights, and I quote:

...are basic to the continued viability of the nation.

In other words, when dealing with linguistic rights, we are dealing with that which defines Canadian nationality. For this reason, when the Fathers of Confederation had to decide how to provide for legislative texts in both languages spoken in Canada at that time, they passed section 133 of the British North America Act, a simple paragraph I shall now read for you:

The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those Languages.

Some might wonder what was meant by acts of the Parliament of Canada. Did this refer exclusively to legislative texts, such as Bill S-40, which Senator Furey spoke to this afternoon? Should we define "act" more broadly in order to include all of the regulatory activities that, as many of my colleagues know, have an enormous impact when it comes to adopting the obligations and restrictions that apply to an inestimable number of activities in Canada?

The Official Languages Act, enacted in 1969, to some extent set out the obligation that is contained in section 133. I would remind the honourable senators that section 4 of the first Official Languages Act, the 1969 one, stipulates that all rules, orders, regulations, bylaws and proclamations that are required by or under the authority of any Act of the Parliament of Canada to be published in the official gazette of Canada shall be made or issued in both official languages and shall be published

accordingly in both official languages. This provision in section 4 was picked up again in the 1988 statute. A number of the honourable senators were present when it was debated, either here or in the other place.

This requirement to enact regulations and legislative instruments arising out of legislation enacted by the Parliament of Canada in both official languages was the object of a judicial interpretation. Many of my colleagues will recall the *Blaikie* case in Quebec, a Supreme Court of Canada judgment in 1979 after the passage of Quebec's Bill 101. This judgment established that Quebec could not enact legislation in French and publish it subsequently in both official languages. When legislation was enacted, it had to be passed in both languages and then published in both. This interpretation for Quebec applies *mutatis mutandis*, as my old teacher would say, to the federal government, because the provision it addresses for Quebec is identical for the Canadian government, as well as for the province of Manitoba. I shall revisit this later.

•(1510)

The *Blaikie* judgment addressed the enactment of legislation and we know what happened in Quebec subsequently. I shall come back to this.

In 1981, there was a second *Blaikie* judgment, which specified that this applied not only to laws but also to regulations, and that consequently section 133 should be interpreted more broadly, since, as we know, violation of a regulation is, in some cases, as liable to have legal and criminal consequences as the mere non-compliance with an act.

Consequently, the situation as far as Canadian case law is concerned, in both its legislative texts — section 133 of the Official Languages Act — and its interpretation by the Supreme Court of Canada, is very clear, very formal.

What happens when one or the other of these legislative activities — either the adoption of laws or the adoption of regulatory texts, instruments and orders — has not been done in both official languages? This immediately brings to mind the Manitoba case.

Some of us had to deal with this same principle, including myself, when I served as Secretary of State for Canada. Honourable senators will recall that in Manitoba, in 1890, an act allowed for Manitoba to enact legislation in English only.

Subsequent to the *Forest* case, all of Manitoba's legislative activity was ruled unconstitutional, invalid because it did not respect the obligations outlined in section 133. We were faced with a situation without precedent in Canada's legal and political history, which had the effect of causing a complete legal vacuum in a province, as its entire legislative history was invalidated by the court.

It was the Supreme Court, in 1985, which proposed a solution for this situation. A fundamental question, which had rarely been debated in Canada's Parliament, had to be answered, that of the principle of constitutional continuity.

In other words, when the rights of an individual are not respected and these rights are violated for a certain length of time, how is it possible to remedy this unprecedented situation?

As a result of the *Blaikie* decision, the Government of Quebec was forced to pass remedial legislation, as defined by the Superior Court of Quebec. Reference is made to this in *Asbestos v. Attorney General of Quebec* in 1980. Following the *Blaikie* ruling in 1979, the Government of Quebec passed legislation to retroactively validate legislation that, since 1976, had only been passed in one official language. In the reference resulting from the Manitoba decision, the Supreme Court of Canada recognized the validity of remedial legislation, or of a sort of legal amnesty, adopted by the Government of Quebec.

Regarding the Government of Quebec's actions subsequent to the *Blaikie* case, the Supreme Court stated, and I quote:

The day after the decision of this Court in *Blaikie No. 1*, the Legislature of Quebec re-enacted in both languages all those Quebec statutes that had been enacted in French only. See: *An Act respecting a judgment rendered in the Supreme Court of Canada on 13 December 1979 on the language of the legislature and the courts in Quebec*.

In 1985, the Supreme Court therefore recognized the validity of this remedial Quebec legislation, which validated *a posteriori* the statutes it had enacted solely in French but had published in both official languages.

What has this got to do with Bill S-41? I will tell you, honourable senators. The Standing Joint Committee for the Scrutiny of Regulations, in its report of October 10, 1996, raised the question of the constitutionality of five regulations it found had been published in both official languages but passed in English only. The seal of the Governor in Council was only on the English version, although the regulations had been published in both languages in the *Canada Gazette*.

There are two elements to the valid passage of a law: it must first be passed and then printed, published to make it available to the majority of Canadians.

Publication is an essential element, based on the principle that ignorance of the law is no excuse. If that is the case, then the law must have been published. Publication is an essential element to the validity of a law, which is why section 133 clearly indicates both "printed" and "published." This is a vital element in any examination of the undertaking contained in Bill S-41.

The Joint Committee for the Scrutiny of Regulations reached the conclusion that five regulations had been published in both official languages but not enacted in both official languages. It did a kind of review of the regulations, and in referring to the original text of these five regulations in question in order to ensure that the text conformed to the way it was published, discovered the absence of a French version.

Obviously, the question arose as to whether, if it had found five, there might well be other old regulations dating back as far as 100 years — who knows? — and others which, due to their nature at the time, contained some element of confidentiality.

Examples of these would be regulations relating to national security and international relations, orders relating to the Official Secrets Act or texts with some connection with federal-provincial relations.

We are aware of the exceptions mentioned in the Access to Information Act. We discussed them during the debate on Bill C-36, the Anti-terrorism Act. The Standing Joint Committee for the Scrutiny of Regulations raised the issue of the validity of certain specific texts, but in doing so, raised the possibility that other statutory instruments, orders or instruments adopted by virtue of enabling powers granted by Parliament, but passed in only one language, may be published in one or both official languages.

Some of my colleagues objected to federal regulatory activity, given that it was virtually impossible for any one person to know all of it. And often in the past, this activity was not entirely codified. Of course, there was a codification done in 1978, but this does not guarantee that all of the regulations are integrated.

Consequently, there is a shadow of doubt regarding the validity of some regulations. Understandably, this raises the issue of the validity of measures taken based on these regulations, and in some cases, criminal obligations that may result if an individual is charged pursuant to one of these regulations and challenges whether or not the regulations apply, given that they do not respect the obligations set out in the Constitution and the Official Languages Act, as interpreted by the courts.

• (1520)

Now, honourable senators, you will better understand the relevance of this bill's title. It is a bill to rectify omissions committed when certain bills were passed. Some of these omissions are known — as the Standing Joint Committee for the Scrutiny of Regulations mentioned in its report — and others may not be, but could well exist. This will deal with a number of the specific cases mentioned by the committee, as well as other potential cases that we may not know about, but which we can reasonably presume exist.

This is an important preventive and remedial bill. What is its purpose? To standardize all of the government's regulatory and legislative activity based on the Canadian Constitution and the Official Languages Act.

Honourable senators, I have tried to outline this in the simplest way possible and to describe the prior court judgments and our obligation, as legislators, to ensure that all of our legislative heritage — that which has been passed and that which remains to be passed — fully respects the principles of linguistic equality contained in the Canadian Constitution.



A number of incidental questions also arise, but I do not want to prolong my presentation any further. We are at the second reading stage and will certainly have the possibility in the Senate Committee on Legal and Constitutional Affairs to hear representations by the Department of Justice, as well as other witnesses and to clarify certain implications of this bill. In my opinion, at the second reading stage, the essential questions raised by the bill have been addressed in order to pique the interest of the honourable senators and the members of the Legal and Constitutional Affairs Committee, so as to ensure that the bill gets the examination and debate it deserves.

**Hon. Lowell Murray:** Honourable senators, I would like to ask Senator Joyal one question, if he is agreeable.

**Senator Joyal:** Yes, of course.

**Senator Murray:** Senator Joyal has succeeded in piquing my curiosity. In the five cases to which he refers, in which regulations had been enacted in one official language, were these regulations, which came under the authority of a single minister or orders-in-council, from the cabinet?

**Senator Joyal:** Honourable senators, the list of the regulations will give you a good idea of what is involved. They are given in paragraph 2 of the committee report and are: the Public Lands Mineral Regulations, the Hull Construction Regulations, the Aids to Navigation Protection Regulations, under the Canada Shipping Act, the Flue-cured Tobacco Producers' Marketing Order, under the Agricultural Products Marketing Act, the Regulations respecting Aeronautics, under the Aeronautics Act. These are just a few examples. This does not concern just one department or one minister. There is, of course, the Department of Transport, and we are all familiar with its tradition, which I have had personal knowledge of in other circumstances, but there is also one relating to agriculture.

**Senator Murray:** Are these not orders-in-council?

**Senator Joyal:** One of them, yes, the one relating to flue-cured tobacco in Quebec. This is, moreover, why the bill, in defining its scope, clearly defines what is involved when we refer to instruments. It means legislative texts.

[English]

What does it mean? A legislative instrument is an instrument enacted by or with the approval of the Governor in Council or a minister of the Crown in the execution of a legislative power conferred by or under an act of Parliament or an instrument that amends or repeals an instrument referred to in paragraph (a).

Therefore, in addition to regulations, decrees are covered.

[Translation]

**Senator Murray:** Out of curiosity, I cannot help but ask the following question: have we sinned five times in English and five times in French, equally in both languages?

[ Senator Joyal ]

**Senator Joyal:** The honourable senator is leading me to a slippery slope. We are aware of historical tradition, honourable senators. I do not really like to use the term "tradition" because I have a great deal of respect for traditions, as they frame and structure behaviours.

However, there has been a habit, in the administration, and particularly in some departments, such as the Department of Transport, for example. We cannot excuse it, but we can explain it.

Transport Canada was a department where many of the professional resources were often borrowed from abroad — from Great Britain — when it was time to establish the infrastructure to regulate the merchant marine. We understand the history of these services in Canada, aeronautics in particular, and other transportation sectors. As a result, there was a propensity in this department to adopt regulations in only one official language in the beginning. Then, when it came time to print and publish them, since they had to be applied throughout Canada, they were inevitably made available in both official languages.

The regulatory activity that consists, as the bill states, in making regulations, that is drafting them and affixing the seal, this activity was traditionally done only in English, in a number of departments. It was a different time. I believe the courts have done us a favour. The Official Languages Act did us the favour of specifying that, henceforth — since the *Blaikie (No.2)* judgment — all this activity must be carried out in both official languages. However, this interpretation of section 133 that I gave you is quite recent. It had not yet been given by the courts in the first years of Canada's Confederation. The *Blaikie* judgment is a recent judgment. It was prompted by Quebec's Bill 101.

It is important to understand that, for 100 years, the specific obligations were somewhat vague. I have no doubt now that the statutory instruments, orders, and other instruments outlined in the bill are made, adopted and printed in both official languages.

**Hon. Joan Fraser:** Could Senator Joyal provide us with the date on which the most recent sin — to use the same term as Senator Murray — was committed? Since when are we once again as white as the driven snow?

**Senator Joyal:** Honourable senators, in looking at this list of the five omissions from the report of the Joint Committee for the Scrutiny of Regulations, I see that it dates back some years. In order to have a more precise answer to the question, I would have to do more research. As I have said, section 4 of the first Official Languages Act, passed in 1969, is quite precise, however. There was a legislative obligation for passing instruments, not just publishing them. It can be presumed that the obligation we have had since that time is a clear one. In order to be totally honest and respectful of the professionalism of the Canadian administration, I would have to take the time to identify what the more recent omissions are. This we could go into when in committee.

On motion by Senator Beaudoin, debate adjourned.



● (1530)

[English]

## STATISTICS ACT NATIONAL ARCHIVES OF CANADA ACT

BILL TO AMEND—THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-12, to amend the Statistics Act and the National Archives of Canada Act (census records).—(*Honourable Senator Murray, P.C.*).

**Hon. Lowell Murray:** Honourable senators, our friend Senator Milne opened debate on third reading of her bill, Bill S-12, on February 19. At that time, I made a few preliminary remarks on behalf of Her Majesty's Loyal Opposition. I intend now to take up where I left off on that occasion.

Today, I want to refer briefly, but I hope satisfactorily, to the testimony that was heard by the Standing Senate Committee on Social Affairs, Science and Technology when it had the bill under study, to the report that the committee tabled in this place and to a compromise that I, and many others, believe is available, which strikes a better balance between the right of Canadians to privacy and the public's right to access to information.

This bill was before us for second reading debate in February and March 2001. I believe the main issues were canvassed thoroughly during that debate. The bill was referred to the committee, which heard witnesses on September 19 last. It considered the bill again on December 13 and reported the bill to the Senate on December 14.

I regret to say that I was not present at the committee. However, I have read the verbatim transcripts carefully.

The committee report on this bill is essentially a narrative of the testimony that the committee heard on September 19, supporting or opposing the bill. In support of the bill, beside the sponsor, Senator Milne, there was the National Archivist, Mr. Ian Wilson, and the former President of the Canadian Historical Association, Mr. Chad Gaffield, who was a member of the expert panel on this matter. The expert panel was appointed by the government.

Opposed to the bill, at least in its present form, were Statistics Canada, as represented by Assistant Chief Statistician Michael Sheridan, and the Commissioner of Privacy, Mr. George Radwanski.

In its report, the committee notes the existence of this compromise proposal by Statistics Canada. I draw the attention of honourable senators to a paragraph in the committee report found in Issue No. 45, at page 10. Speaking of the compromise proposal, the committee said:

This proposal would provide more limited access than anticipated by Bill S-12. Access to historical census records would be provided only for genealogical research about one's own family and for historical research. Only family members (or their authorized agents) or those conducting historical research (peer reviewed by the Social Sciences and Humanities Research Council) would be given access. While access would be unrestricted, researchers would only be permitted to make public the following basic information: name, age, address, marital status and birthplace. Furthermore, those accessing information would have to sign a legally enforceable undertaking confirming that they agree to be bound by these terms.

A bit later, the committee concluded:

In summary, many witnesses and Committee members favoured the disclosure of historical census records after 92 years, but there was disagreement as to whether Bill S-12 provides adequate privacy protection. Some members of the Committee favour the provisions of the compromise proposal over the process delineated by Bill S-12. For these reasons, the Bill was agreed to on division of the Committee.

I think it is fair to say that the committee decided not to take the time that might have been necessary to try to come to a conclusion on the merits of the compromise proposal versus the bill itself and that they have thrown the ball firmly back into our court by sending the bill back to us adopted, on division.

When I spoke on September 19, I said the bill goes far beyond its stated purpose, which is to provide access to personal census records for genealogical or historical research.

The government has refused to make these personal records available because of regulations promulgated in 1906 and 1911 under the 1905 and 1906 Census and Statistics Act and because of legislative provisions passed in the Statistics Act of 1918, all of which require that personal information collected in the course of a census remain confidential.

During the debate at second reading, I read the relevant regulations and provisions of the law into the Senate record. I will not repeat that exercise now.

The sponsor of the bill, Senator Milne, believes that the 1918 legislation and the 1906 and 1911 regulations have been overtaken by the 1983 Privacy Act and its provision for release of government information after 92 years. On the basis of her speech here on February 19, I acknowledge that she seemed to have some support for that position from the Department of Justice, or from at least one officer in the Department of Justice, judging by the quotations that she placed on the record on February 19.

If Senator Milne is right, then this bill is not necessary at all. All that remains is for the Department of Justice and/or the cabinet to instruct the Chief Statistician to turn over those records to the National Archives and provide immediate access to the 1906 personal census records and access next year to the 1911 personal census records.

However, the government and/or the Department of Justice have not done so. They continue, I think properly, to consider themselves constrained legally by the earlier legal enactments to which I have referred. I think it is safe to say that they believe themselves constrained also, morally and politically, by undertakings of confidentiality given by past governments.

•(1540)

Even the expert panel appointed by the government was of the view that legislation would be needed to release information collected since 1918 because of the confidentiality provisions in the law passed in that year.

On that point, Mr. Radwanski said, when he appeared before the committee, and I quote from his evidence of September 19:

While there may be some dispute as to what Parliament intended in the early censuses, there is none as to what the government actually said in its regulations and, from 1918 on, in legislation. Since 1971, when Statistics Canada began sending forms directly to respondents rather than using enumerators, respondents have been told in writing that their information will remain confidential.

We have this bill before us. I have to confess that one sympathizes — and I do — with Mr. Gordon Watts, an expert in genealogy, who came to the committee in support of the bill, when he told the committee:

I am interested in my ancestors. I am not interested in Mr. Radwanski's ancestors. I am not interested in Mr. Fellegi's ancestors. I am looking for my ancestors.

Just so, honourable senators, and that is the purpose of the compromise that was before the committee from Statistics Canada, and to which Mr. Radwanski referred, and to which the committee referred in its report.

I do want to share also with you several comments that were made by the Commissioner of Privacy in his testimony before the committee. He said:

This bill, of course, goes far beyond what has been proposed even by most of the advocates of access to census records, and far beyond the compromise that both I and the Chief Statistician have publicly supported. It also raises a deeply troubling issue by proposing legislation that limits or eliminates existing rights retroactively, and violates a promise repeatedly made to Canadians by successive governments. The bill, as you know, states that every individual who has filed a census return and has not made a valid written objection is deemed 92 years later to have given irrevocable consent to public access to his or her census return.

Later, Mr. Radwanski said:

This would apply to all censuses taken to date, despite the government having explicitly told respondents that their

returns would not be accessible. To call this "consent" is frankly to debase the term and to cause real concerns to anyone who must be preoccupied, as I am, with the concept of meaningful consent with regard to privacy.

Mr. Radwanski also points out in his testimony that only the individual census respondent is considered to have any right or privacy. He mentions that none of the other people affected by census information would, under this bill, have any right to object. That could include relatives and descendants of respondents. Mr. Radwanski said:

Not only do the dead or very old lose their privacy, but so do their survivors. This could also include people who are not respondents, but who are included in a census record because they are part of a household.

Honourable senators, it could even include, as I discovered reading the long form that Statistics Canada put out, someone who happened to be spending the night in a particular dwelling the night before the census form was filled in. I will not speculate as to the possible implications of that.

One of the stated benefits of this bill has to do with information relating to the medical histories of one's ancestors. I note from reading the transcripts that Senator Graham raised this matter at the committee. When Mr. Radwanski referred to this as supposedly one of the most important benefits of the bill, he said:

I would respectfully suggest that it is one of the most dangerous aspects of this bill. One of the great emerging issues in the privacy field is the issue of genetic privacy and who has the right to the genetic information of an individual.

There has been reference earlier in the debate in some questions involving Senator Fraser, Senator Milne and me to other countries. Since February 19, I took the occasion to read census questionnaires not only of our own country but of Australia and of the United Kingdom, in the latter case what is called the "England Household Form." I must say that while the census forms of those countries are intrusive enough, they are rather less so than the Canadian long form in certain respects. There is, for example, no reference to same-sex relationships in either the England or Australia documents. Information that is required about sources of income is less detailed in the England and Australia forms than it is in the Canadian long form. In both the England and Australia forms, the respondent has the option of replying or not to the question on religion.

Finally, in Australia, as I pointed out on February 19, the information can be divulged after 99 years only if the person has signed his or her agreement. Let me just quote you the relevant provision, if I have it here, from the Australian form.

Question 50: Does each person in this household agree to his/her name and address and other information on this form being kept by the National Archives of Australia and then made publicly available after 99 years?



Then it continues:

Answering this question is optional. A person's name and identified information will not be kept where a person does not agree or the answer is left blank. See page 15 of the census guide for more information.

I did not track it down that much. As you see, it is obvious that even after 99 years the respondent will have had to have signed his or her approval at the time of the census being taken, and that even after 99 years the personal information may not be divulged.

I also note in passing that income information is sought on the Canadian form, in particular the sources of one's income. It occurred to me, and I have confirmed, that this is the kind of information that, when we file it — as we do, with the Canada Customs and Revenue Agency in the course of filing our annual income tax return — is kept confidential forever.

•E1550

Under this bill, however, it would eventually be made public. There is no exemption in the bill. The questions are quite detailed. You would fill them in and, under Senator Milne's bill, they would eventually be divulged, be made public.

On February 19, I made reference to the representation Senator Milne made in her speech immediately preceding mine concerning allegations of bad faith or worse on the part of Statistics Canada, and in particular Dr. Ivan Fellegi, the Chief Statistician. I suggested at the time that we must give Dr. Fellegi and Statistics Canada the opportunity to reply to our colleague's representations.

My opinion on this matter is reinforced, having taken the opportunity to read the transcript of Senator Milne's speech. She states that the Chief Statistician has shown "complete and utter intransigence and inflexibility." She accuses him of failing to do what he is "legally and morally required to do." In particular, she makes the following representations: First, of providing "false information" as a basis of focus group studies commissioned by Statistics Canada; second, of "disregarding the will of Parliament" by not releasing the individual returns from the 1906 census; and, third, "breaking the law by withholding the 1906 and 1911 individual returns from the National Archives."

Honourable senators, these are serious representations concerning a senior public servant and the agency he heads, Statistics Canada. The public servant in question I know is highly respected and I also know that the agency, Statistics Canada, enjoys an excellent reputation at home and abroad. These representations have been made by a senator in the Senate. I believe we must deal with them. We will not have another opportunity to do so. The only way to do so, in my view, is to refer the bill back to the committee and have Statistics Canada answer on their own behalf. I intend therefore to move an amendment to make this possible.

I repeat, the substance of the bill before us, goes far beyond the stated objectives of the bill. I make my own the words of the Privacy Commissioner, Mr. Radwanski, who said:

My suggestion, senators, is to draft, introduce and then pass legislation that reflects the compromise position which precisely permits individuals to research their own genealogy, subject to undertakings not to use it for other purposes, and that also permits legitimate research, provided again that it does not get used in such a way as to compromise the rights of individuals in the kinds of areas about which we are concerned.

Then he uttered the sentence that I endorse completely:

There is a solution, and it is before us, but it is not the bill that is before the Senate at this time.

#### MOTION IN AMENDMENT

**Hon. Lowell Murray:** Honourable senators, I move, seconded by Senator Stratton:

That Bill S-12 be not now read a third time but that it be referred back to the Standing Senate Committee on Social Affairs, Science and Technology for further study.

Honourable senators will know what I intend by that amendment, which is that the representations made by Senator Milne concerning Statistics Canada and Dr. Fellegi be taken up by the committee and that the appropriate officials of the government appear to answer to them.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Lorna Milne:** I must say, honourable senators, that I would absolutely delight in having a further crack at Dr. Fellegi when he appears before the committee because there are many more questions I would like to ask him. I also want to make sure that the members of this chamber know that nothing that I said in my speech was news to Dr. Fellegi, because he had been in my office and we had spoken about this long before the Senate committee meeting.

He still did not come to that Senate committee meeting; he sent a representative. If it should happen to be that this bill is referred back to committee, which would not bother me a bit, I would like to have a time limit on the duration it may be before that committee. I would not like to see the bill sitting in limbo for another six months or a year. I would like to see the committee report back to the Senate perhaps by the end of April. Would that be a reasonable time frame?

If I can amend the amendment to add that caveat, I would like to do so.

**Senator Murray:** Honourable senators, I appreciate the point made by the honourable senator. I do not have a view on that. I would assume that is something that ought to be negotiated between the government, my friend and the chairman of the committee.



**Senator Milne:** In that case, perhaps Senator Murray would want to add it to his motion.

**Senator Murray:** I hesitate to take it upon myself to instruct the committee as to a particular date to bring in its report, not having had the opportunity to consult with them. I have no objection in principle to imposing a deadline, if that is the wish of the Senate. Why do we not let it stand until next week until somebody has had an opportunity to discuss the matter with the chairman of the committee?

On motion of Senator Milne, debate adjourned.

### FOOD AND DRUGS ACT

#### BILL TO AMEND—THIRD READING—DEBATE ADJOURNED

**Hon. Jeremiah S. Grafstein** moved the third reading of Bill S-18, to amend the Food and Drugs Act (clean drinking water).—(*Honourable Senator Taylor*).

He said: Honourable senators, do you ever wonder why the public is sceptical about politicians and politics? Do you ever wonder why politicians rate so low in public esteem? One reason is that the public believes politicians do not care about the obvious cares of the people they have been chosen to serve? Does anybody care, they ask?

Mother Teresa scoffed at politicians with her oft-repeated observation that "politicians care more about power than people" — so true, honourable senators.

Honourable senators, we have one startling example for the rationale behind this glaring deficit in public trust — the tragedy in Walkerton. That was a clear and public danger to public health. Since that so-called wake-up call almost two years ago, the situation with respect to clean drinking water in every region of the country continues to deteriorate.

We now learn from Walkerton that some 85 volumes, with hundreds of thousands of lines of testimony, have been generated with an estimated cost of \$150 million — that is for the preliminary report of the inquiry, for the costs to renovate the water system and for the costs incurred to the health system.

•(1600)

Walkerton is comprised of some 5,000 residents — \$30,000 per resident. That is the cost to the taxpayer for the lack of regulation in respect of the water system of that small system.

It was not a wake-up call. Bill S-18, my modest but cost-effective step, is to redress the problem of clean drinking water, which is deteriorating in every region of the country. This bill is curative. This bill is preventive regulation, precisely what Parliament was established to do: to prevent bad conduct by the rule of law, by regulation.

The evidence, honourable senators, is uncontroverted. In Newfoundland, there are constant boil advisories. Honourable

senators from Newfoundland know that. In Quebec, there are constant boil advisories. Senators from Quebec know that. In the Maritimes, there are constant boil advisories. Senators from the Maritimes know that. In Ontario, my region, there are boil advisories in urban regions, northern regions and throughout the province. In Manitoba — the Leader of the Government in the Senate knows it — in Saskatchewan, Alberta and in many rural and urban regions across the country, the situation continues to deteriorate. Most obscene of all is the situation with respect to the Aboriginal communities. Our Aboriginal representatives here in the Senate know that, and still there is no concerted action or leadership to prevent this clear and present danger to public health in the country.

The federal Minister of Health cannot object to this bill. Why? Because the department does not know. The Department of Health collects no reliable data about the number of bad drinking water systems in Canada, the number of boil advisories, or the state of the water systems in this country. The Department of Health has no reliable calculation with respect to the costs to the health system of bad drinking water. The department does not know.

We know that Canadians die. We know that children are affected. We know that children's health is permanently damaged due to bad drinking water. We know that 25 per cent of all Aboriginal communities suffer from bad drinking water systems. The situation is so bad that Aboriginal women, in order to cleanse their wombs, will leave the reservation for two or three years so that they can have healthy babies. This is in the 21st century. This is in Canada.

What does the federal government proffer as a preventive or curative measure? It offers only guidelines, and the testimony before the Senate committee about the guidelines is that they are inadequate.

However, the Government of Canada does regulate water. It regulates bottled water through the Food and Drugs Act. It regulates packaged ice, but it does not regulate clean water in our water systems. The federal government regulates water on trains and in planes and in parks, yet the federal government refuses to regulate clean drinking water in our urban and rural communities.

Canada has the largest supply of fresh drinking water in the world. However, today, on the front page of *The Globe and Mail*, the World Water Council advises us through its Canadian representatives that the situation with respect to water management in this country is worsening every day and, within decades, will be lost.

An internationally respected scientist from the University of Alberta, Dr. Schindler, whom I had the privilege to meet last July at a summit on water organized by M.P. Dennis Mills at the Wahta Mohawk Territory, estimated to me that no less than 100,000 Canadians would suffer from physical ailments from bad drinking water. We did not get those statistics from the Department of Health because it did not have them. We had to extrapolate them from the American experience. Imagine that!

Over 100,000 Canadians every year suffer incalculable damage to their immune systems with respect the physical ailments arising from bad drinking water, and we have no cost figures on this. However, if we extrapolate using the Walkerton example, we are talking about hundreds of millions of dollars incurred every year by the taxpayer because of an absence of leadership on this narrow issue.

The only argument I have heard against the bill is that there are "constitutional problems." We know there are constitutional problems. Are there constitutional problems under the Constitution? No, certainly not, and that is what Mr. Justice Dennis O'Connor said in the report on the Walkerton inquiry at page 445. He says that the federal government has the power to regulate clean drinking water systems, obviously, if it chooses.

Honourable senators, I want to commend Senator Taylor and the members of the Standing Senate Committee on Energy, the Environment and Natural Resources, who meticulously reviewed this bill and unanimously concluded that it should be adopted. I want to thank them because they, with great patience and diligence, listened to testimony from across the country. Other than some voices of concern raised by federal officials who are not able to defend their position, everyone agreed that this bill was a salutary bill — no objection, none whatsoever.

Some argue that the federal government should not take "ownership" of this bill. Why? Because once the federal government "takes ownership," it may have "responsibility." However, the federal government does have ownership. It has the ownership of the cost to our health system. It has ownership of the cost to the children who are affected by this water. It has the cost of ownership for the responsibility to the Aboriginal community to which it is directly responsible under the Constitution. It has the ownership to protect the safety of our national health system. The federal government does have ownership, so it cannot run and it cannot hide from its responsibility.

The American government that does not like to take on state responsibilities has taken over ownership of this problem in the United States since 1974 because of exactly the same problem. There were wake-up calls and the federal government of the United States reacted. Now, the federal government, under its environmental agency, regulates water in the United States.

This is interesting. If one wants to phone the federal environmental agency in the United States and give them a long-distance code, one can find out immediately, by computer, about the most recent water advisories within that region. It is a simple process, but not in Canada. We simply do not know.

Honourable senators, we have yet to hear the final recommendations from Mr. Justice Dennis O'Connor, who, by the way, in this marvellous Part I of the report, reviewed all the problems and did it at the cost of millions of dollars. I commend Senator Taylor because he came to the same conclusions with less money through the work of the Senate committee: same

conclusions, less money, cost effective. Congratulations, Senator Taylor, and all members of the committee.

We have yet to hear from North Battleford. I can tell honourable senators beyond reproach that it will cost millions of dollars to repair the situation there. We know the problem in Southern Alberta. We know the problem in the Northwest Territories. We know the problem in all the territories.

Honourable senators, we have senators in this chamber representing the great province of Newfoundland and Labrador. Is it not amazing that in the 21st century there are rural communities in Newfoundland, families with dozens of children, and some of those households have never had clean drinking water. They live on boiled water. Imagine.

Tomorrow the world will celebrate International Women's Day. Women of the world arise. Imagine being a housewife in Newfoundland and bringing up a family on boiled water. Think about it. It is shocking.

•(1610)

Honourable senators, let us get on with the job. This bill has been talked about in the other place. All parties save one, the Bloc Québécois, commend us for the work done on it. They are anxious for this bill and want to dig their teeth into it. Let them get on with the job. I urge honourable senators to support this bill and send it to the other place. I am confident that we will have at least added a footnote to the health and safety of Canadians.

**Some Hon. Senators:** Hear, hear!

**Hon. Nicholas W. Taylor:** Honourable senators, after so many compliments and accolades to the committee, I am in the strange position of trying to gild the lily. I will resist, but I will blow on it a little. If honourable senators are talking in their regions about the values of the Senate, you might want to note how cheaply this investigation into pure water was done, as compared to what the Ontario government had to pay.

The bill was very well drafted. The legal eagles that we have, and there are many around Ottawa, saw this and it was felt to be perfect. There were no changes. I do not know what that means. It was either so hopeless they did not know where to start, or it was so good they did not dare try.

One thing that has come through, and perhaps it is not quite understood, is that we have spent the last generation cleaning up our sewage. In other words, we have put in very stringent regulations as to what can come through a sewer and out into the water. However, we have done little or nothing on wastewater. Even the city of Ottawa, the great capital with the National Capital Commission, allows wastewater to be dumped into the river untreated. In many areas, wastewater does not go through a settlement system to take the sand out of it. There are irrigation reservoirs in the West filling up due to the fact that cities are letting their wastewater run off. The irrigation reservoir then becomes a sediment trap.



The next time you are walking to work, look at how many dogs per block there are. Then remember that they are using the surface and that washes into the system and then into the water. There are other things as well, such as washing your car. Some people even get away with draining their oil. The point is, that wastewater flows off the streets, through our sewers and into our rivers. Water comes from stockyards and feeding pens, as well.

To save costs, we take nearly 80 per cent of our drinking water from surface water, not from wells. That surface water is not contaminated by sewage, but by the wastewater that flows off the land. That is one of the interesting things to recall when we re-examine the whole area of pure water. It is not a case of sewage any more. It is a case of surplus water and the amount the population has spread. We have pig farms, feed lots, dogs and people all contributing to the wastewater that flows from the surface into the streams from which we get 80 per cent of our drinking water.

Until now, we have been getting by with a little chlorination or other basic treatments. The fact of the matter is if we tried to make sure the wastewater was treated before it went into the sewer, it would make it that much easier to clean before the public used it.

The second item that we run across is the question of provincial rights. We asked all the provincial ministers to appear before the committee to give their opinions. Most of them said yes, then I got a second letter, usually from the justice department in that provincial government, saying no, they decided they would not appear because it was a provincial problem, not a federal problem.

If you are taking in water that is poisonous or not suitable for cooking, it is a people problem, not a provincial or federal one. That is why the Senate is so well suited to put this issue forward. We are supposed to be less concerned about the interplay between provinces and the federal government, and more concerned with citizens and, in particular, the way minorities are affected. The federal government sits on its hands and says it is a provincial responsibility. The province sits on its hands and says it is a federal responsibility. Consequently, we have, for example, our First Nations left trying to drink polluted water.

I have a good illustration of what can be provincial or federal. If you go back to your hotel room tonight and open a bottle of water, that is regulated by the federal government. The federal government decides whether or not that is safe to drink. If you turn your tap on, the provincial government decides whether or not that is safe to drink. That is intriguing. Maybe all we need is a law saying labels should be applied stating that it is approved either by the federal government or by the province.

There is another idiosyncrasy with respect to surface water. If you pollute it to the extent that the fish cannot live, you would be prosecuted by the federal government. However, if you pollute it to the extent that people cannot live, the federal government would not prosecute. It is a provincial responsibility. In other words, fish have rights that people do not have.

[ Senator Taylor ]

The last thought I want to leave honourable senators with is that the United States, which is often criticized in many areas took the bit in their teeth and decided, way back in 1974, that drinking water was too important to be left to state government or to municipalities. Thus rules and laws were set down by the federal government. The least we can do is try to keep up to them in that way.

I, therefore, join in recommending the passage of this bill as quickly as possible in order to get it over to the House. Not only that but I would recommend that honourable senators might do a little lobbying when the bill is before the House in order to ensure its passage.

On the motion of Senator Robichaud, debate adjourned.

[Translation]

## OFFICIAL LANGUAGES

### SEVENTH REPORT OF JOINT COMMITTEE—DEBATE ADJOURNED

**The Honourable Jean-Robert Gauthier** moved that the Senate proceed to consideration of the seventh report of the Standing Joint Committee on Official Languages, entitled "Good Intentions are not Enough," tabled in the Senate on February 21, 2002.

He said: Honourable senators, the Standing Joint Committee on Official Languages presented its report entitled "Good intentions are not Enough" on February 21. I had the honour and the pleasure to table the report here in the Senate and, of course, it was tabled in the House of Commons by co-chair Mauril Bélanger, the honourable member for Ottawa-Vanier.

The report makes 16 recommendations regarding the services provided by Air Canada in both official languages. On May 2, 2001, the committee undertook a study of the services provided by Air Canada in the two official languages. An interim report was tabled in Parliament the following month.

The committee continued its study of Air Canada when Parliament resumed sitting in the fall. The testimonies heard during the eight public hearings allowed the committee members to identify problems preventing Air Canada from adequately meeting its linguistic obligations under the Official Languages Act, a quasi-constitutional act.

In its report, the committee urges top managers to put in place an Official Languages Act appropriate implementation scheme and change the company's culture. There is some resistance. Management must do something.

The committee takes very seriously Air Canada president and CEO Robert A. Milton's commitment to present an action plan to implement the Official Languages Act before the end of March 2002.

Most recommendations addressed to Mr. Milton are designed to ensure that Air Canada's action plan contains the necessary measures to fill the gaps in Air Canada's linguistic performance.



I invite the honourable senators to read this comprehensive and serious report which was necessary, in my opinion.

[English]

Among other recommendations, the committee calls upon the Minister of Transport, the Honourable David Collenette, to amend the Air Canada Public Transportation Participation Act so that it stipulates, unequivocally, that the Official Languages Act takes precedence over collective agreements.

The unions have told the committee that they accept that the Official Languages Act has precedence over union contracts. That is important.

The introduction of such an amendment has proven necessary given evidence that the seniority rules have until now been given greater weight and respect than the provisions of the Official Languages Act. Other recommendations call on the minister and the President of Treasury Board to ensure that Air Canada lives up to its linguistic obligations and that it reflects Canada's linguistic duality at home and abroad. In addition, the committee draws the government's attention to a number of issues that have arisen during the course of its work and upon which it is not yet prepared to make recommendations. In their conclusion, the members of the committee emphasized that good intentions are not enough, that it is results that count.

When this report was tabled in the House of Commons, I felt that it was important to bring to the attention of the Senate that a dissenting opinion was appended to the report by the opposition party in the House of Commons without consulting the Senate, without obtaining prior consent from us, without even talking to us about this measure.

As honourable senators know, I have before the Senate a motion asking that the House of Commons correct that mistake. I think it is a serious mistake. I talked about it yesterday. I do not think a house can unilaterally change, modify, annex or do anything to a report of a joint committee. I will wait until the House of Commons comes back next week to see what it will do with this motion, which I hope will be adopted by this house.

In the House of Commons rules, there is a provision that allows for a committee, when it tables a report, to ask the government for a comprehensive answer to the report. The government usually gives a committee 150 days to provide an answer, which I think is important. We do not have such a measure or procedure in the Senate.

I intend to raise this matter at the appropriate committee so that from now on, when the Senate adopts a report — I am not saying when we table a report — that the government be asked to give us a comprehensive answer to that report. The normal, logical process that should be followed when a committee of the Senate or a joint committee of the House and Senate makes a report is that we should receive a comprehensive answer from the government as to what it thinks about the proposals given to it. This is important in parliamentary terms. It is important for

senators to know that our work is understood. At least the government would have a chance to say, "This report is silly," or "This is what we want to do," or "This report has a certain amount of seriousness to it."

[Translation]

This would shift the burden of proof to the government, in order that it take a clear stand on the follow-up to a report by a joint committee of the Senate and, on this note, I would like to thank you for your attention.

On motion of Senator Robichaud, for Senator Maheu, debate adjourned.

[English]

## STUDY ON MATTERS RELATING TO FISHING INDUSTRY

### REPORT OF FISHERIES COMMITTEE

On the Order:

Resuming debate on consideration of the third report (interim) of the Standing Senate Committee on Fisheries entitled: *Aquaculture in Canada's Atlantic and Pacific Regions*, deposited with the Clerk of the Senate on June 29, 2001.—(Honourable Senator Mahovlich).

**Hon. Francis William Mahovlich:** Honourable senators, I rise to make a brief remark on the aquaculture report tabled by the Standing Senate Committee on Fisheries in June 2001. At the outset, I should like to compliment the chair, Senator Comeau, and the deputy chair, Senator Cook, for their hard work and guidance during the course of this challenging study on an important and growing industry.

•(1630)

While aquaculture shows great potential for economically depressed communities, committee members agreed on the need to proceed with caution because of potentially negative impacts on our ecosystems. They noted that a major problem was the absence of objective, scientific information on a number of issues, including the ecological effects of escaped farmed salmon on local species, the incidence and possible transfer of disease between wild fish and farmed fish, and the possible environmental risks associated with the wastes that are generated by fish farms.

Honourable senators, your committee concluded that without sound scientific knowledge, it is difficult to see how agencies that regulate the industry can set meaningful standards and guidelines. To make a long story short, committee members recommended that the federal government invest in more research to ensure that the aquaculture industry remains within ecological limits, and that fish habitat and wild fish stocks are not compromised.

The Standing Senate Committee on Fisheries limited the scope of its study to marine waters on the Atlantic and Pacific coast areas that dominate national production. However, I should like to point out that aquaculture is also important in my home province of Ontario. In Ontario, the industry was valued at approximately \$60 million in 1999. Over 4,000 tonnes of fish are reportedly produced annually, 95 per cent of which are rainbow trout. While fish farms are located mostly in southern and central areas of the province, there has been some recent expansion into Northern Ontario, particularly in the waters of Georgian Bay.

Last October, the Environmental Commissioner of Ontario released his annual report under the heading "Cage Aquaculture" that looked at, among other things, the growing of finfish in net cages in the Great Lakes. The provincial commissioner wrote:

Caged aquaculture operations do not treat their waste and instead use the water body itself...to treat their wastes through dispersion, dilution and decomposition. This method has consequences similar to the practice of building taller smoke stacks —

Just as they did in Sudbury —

— so that industrial air emissions can be carried away by the wind.

An example of the damage that caged culture operations can cause occurred in Ontario in 1997 in some of the bays in the north channel of Lake Huron, near Manitoulin Island. At the LaCloche site in Lake Huron, the Ontario Ministry of the Environment found that the dissolved oxygen levels were extremely low throughout the bay. There was absolutely no oxygen present at all in the deeper waters of the bay over a large area. As a result, fish were not able to survive in the deep water of the bay and they were forced to move to other areas of Lake Huron.

Honourable senators, accounts such as this about the industry worry me. In fact, they worry many people. Early on, during the course of our study, we learned about non-indigenous species of fish and shellfish being farmed in Canadian waters, including Pacific steelhead trout on the Atlantic coast and Atlantic salmon on the West Coast. In Canada, marine finfish such as salmon and trout are farmed in net cages, and every year large numbers escape for a variety of reasons. For many, this is a matter of great concern because of its biodiversity implications. Committee members were often reminded that when non-native species of fish are introduced, their effects on the ecosystems and on native species can be both significant and unpredictable.

What are the long-term impacts? While introduced species compete for food, will they take over the habitat of other species? Could they interbreed with native wild populations? These are some of the questions being asked.

In Ontario, Pacific salmon, chinook, coho and rainbow trout were introduced to the Great Lakes. According to one recent

news report, those Pacific fish may be preventing depleted native salmon stocks from recovering.

Honourable senators, aquaculture in Ontario and in Canada is expected to increase. The Environmental Commissioner of Ontario concluded in his October 2001 report that it was essential that the government ministries and agencies work together to ensure that the aquaculture industry is sufficiently regulated to protect the environment. That sounds reasonable to me.

**The Hon. the Speaker *pro tempore*:** If no other senator wishes to speak, this item is considered debated.

[Translation]

## ENDING CYCLE OF VIOLENCE IN MIDDLE EAST

INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator De Bané, P.C., calling the attention of the Senate to his recommendation for ending the atrocious cycle of violence raging now in the Middle East.—(Honourable Senator Prud'homme, P.C.).

He said: Honourable senators, for more than 40 years, I have kept repeating that the only way to solve the Israeli-Palestinian conflict taking place before our very eyes is through the spirit of United Nations resolution 181, adopted on November 29, 1947, with 33 countries for, 13 against, and 10 abstentions. For historical reasons, allow me to name them.

From South America: Bolivia, Brazil, Ecuador, Paraguay, Peru and Venezuela; from Central America: Costa Rica, Guatemala, Nicaragua, Panama; from the Caribbean: the Dominican Republic and Haiti; from North America: Canada and the United States; from Eastern Europe: Byelorussia, Czechoslovakia, Poland, Ukraine and the U.S.S.R.; from Northern Europe: Denmark, Iceland, Holland, Norway and Sweden; from Europe, countries that were member states of the United Nations at that time: Belgium, France and Luxembourg.

Of all the countries in Africa, numbering more than 50 today, there were only two in the UN back then: Liberia and South Africa. From all the countries in Southeast Asia, there were only three in the UN: Australia, New Zealand and the Philippines. The aforementioned 33 countries have a moral responsibility.

Thirteen new member states voted against resolution 181: Afghanistan, India and Pakistan. The only Arab countries that were in the UN at the time: Egypt, Iraq, Lebanon, Saudi Arabia, Syria and Yemen, as well as Iran and Turkey. Only Cuba — and I would point out not Castro's Cuba, because we are talking of 1947 — and Greece decided to vote against the resolution.

[ Senator Mahovlich ]



• (1640)

Ten countries abstained: three South American countries and three Central American: Argentina, Chile, Colombia, Salvador, Mexico and Honduras; in Africa, the only member: Ethiopia; in Europe: Great Britain; in Asia: China; and in Eastern Europe, Yugoslavia.

What did this resolution recommend? Partition of the territory of Palestine into two states, a Jewish state and a Palestinian state and a zone "under special international regime" — read Jerusalem — administered by the UN.

I would draw your attention to the active participation in the drafting of this resolution by Justice Ivan Rand of the Supreme Court of Canada. And it is under the highly capable direction of a man of great skill and a great ambassador, Lester B. Pearson, Deputy Minister of External Affairs at the time and Canada's representative to the UN when Mackenzie King was Prime Minister, and Minister of External Affairs when Louis Saint-Laurent was Prime Minister, that this resolution was adopted.

In order to have a clear understanding of the situation in the Middle East, it is essential to keep in mind the historical context of resolution 181. Otherwise, it would be foolish to claim to be able to grasp the political issues at stake today. In fact, as has been said over and over, it is the Western countries, burdened with guilt over the Holocaust — a historical event that cannot be overlooked — which decided to have this resolution adopted. This they did despite the acts of terrorism that had already been perpetrated by such Jewish movements as the Stern Gang, the Irgun, with the backing of Menachem Begin and Itzak Shamir, who were both to subsequently be prime ministers of their country.

I will not go into the murders of Count Bernadotte, or of Lord Moyne in Egypt at this time. I will reserve this for a later speech.

This historical detour does not claim to determine the responsibility of each in the present drama, and still less so to judge certain figures. Its sole objective is to remind us that we have a historical responsibility as far as the situation in the Middle East is concerned. This is, moreover, the direction we must take in order to consolidate peace in the region. By what means?

It is not acceptable, I believe, to tolerate a policy that makes the well-being of a community dependent on the repression of another community. It is not acceptable for those with a monopoly on military might to take it upon themselves to bomb civil populations under the pretence of fighting terrorism.

In fact, I would suggest that you read the remarks made by Colin Powell, in the United States, no later than yesterday.

It is not acceptable for religious extremism, be it Jewish or Islamic, in all its cruelty and brutality, to be considered a conceivable alternative.

It is not acceptable for the implementation of resolutions 181, 194, 242, 338, 3236, and 1322 of the UN General Assembly to be constantly postponed. I will give you an idea of what the press tells us about these resolutions:

[English]

"Canada stands for 242, 338, 13-something," without explanation, so people say, "Oh, Canada stands for 242."

[Translation]

It is not acceptable for us to stand by and say nothing about this tragedy. Everything should be done to avoid the lethal trap of this escalation of terror. What should we do? We should say loud and clear that brute force must yield to the forces of justice and peace and that we must abide by the spirit of resolution 181.

The resolution is clear, but its spirit is clearer still. It has been the policy of our country, Canada, and of every Liberal and Conservative governments to say NO to occupied territories, NO to Jerusalem belonging exclusively to either side, NO to settlements. In other words, we must get back to the spirit of the resolution. Judging by the feeling of disgust caused by the current situation, I sense that this solution will eventually prevail. There is no other one. People who have a short memory are misinterpreting our intentions, mine included. What would they say, and I am talking to, among others, senators who are wives, who are mothers, who have children, who have daughters, who have fiancés, if for the past 50 years they had been subjected to constant humiliation? What would we say about these people experiencing loss of dignity on a daily basis? What would they say if they had been dispossessed of their land, their trees, their water supply? What would they say if they had been stripped of their nationality, their roots, their culture? What would they tell these young boys who are committed to dying because life under a regime which, in many respects, is similar to apartheid is no longer worth living? In short, what would they tell these people who have lost hope?

I find it unbearable to have to talk daily about the cruelty shown by both sides. However this is something I have been faced with since 1964 when I was first elected to the Canadian Parliament. We are exposed daily to scenes, each one more horrible than the last.

• (1650)

It is all so confusing. It is also confusing for people promoting the right of the Palestinians to self-determination to be accused of anti-semitism. One inescapable fact remains: the situation in the Middle East is deteriorating rapidly. And yet parliamentarians across the world and especially in Canada are deathly afraid to talk about it. I will always be astonished to see how easy it is to talk about just anything, be it sport, sex, religion, but, when it comes to the Palestinian question, everybody clams up. This deafening silence is very telling. This begs the question of why some subjects are taboo. I want to draw your attention to how calm I am today, because I intend to make another very in-depth inquiry, which might surprise several of you. However, today I want to give you a glimpse of what I will tell you in writing.



Also, I do not understand the attitude of the Jewish diaspora, which has made such a major contribution to every field of human endeavour. I am saying so directly to my colleagues in the Senate, who have so much to offer. They are part of the diaspora. I do not understand why they, and all those who support them, cannot find a just and fair solution to the Palestinian question.

**The Hon. the Speaker *pro tempore*:** Honourable senators, I am sorry, but Senator Prud'homme's allotted time has expired.

**Senator Prud'homme:** Honourable senators, I ask for leave to continue.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Senator Prud'homme:** Honourable senators, inevitably, there will be two viable states, two states whose security will have to be guaranteed. This has been my stand for a long time, but it is not my idea. Former U.S. President Clinton and even Mr. Bush, the current President of the United States of America, have said so. This is the message I want to give the Senate during the official visit of the President of Israel to our country.

I was at the official reception last night. I believe we have the duty to understand, to strive to avoid the sheer madness which has overtaken the whole area and which threatens to overtake us all, honourable senators. We have no idea when we will be able to put a stop to it.

Resolution 194, passed in December 1948, dealt with the situation of Palestinian refugees, allowing them to return to their homes and live in peace. Resolution 242, passed November 22, 1967, after the Seven-Day War, laid the foundations for peace in the Middle East by requesting that Israel withdraw from the occupied territories and that Arab states recognize Israel's right to peace within safe borders. I defended this resolution within the Parliamentary Union, all on my own. I made the point that the two sides must recognize each other. It was not very popular. I did it because I believed in it. It worked.

Resolution 338, passed in 1973, during the Yom Kippur War, reaffirmed the validity of resolution 242, which called for a cease-fire and negotiations to work for "the establishment of a just and lasting peace in the Middle East."

Resolution 3236, passed November 22, 1974, reaffirmed "the inalienable right of the Palestinians to return to their homes and property." The last resolution, resolution 1322, passed by the Security Council on October 7, 2000 by 14 votes and one abstention — a remarkable gesture, where even the United States did not use their veto. They abstained. This resolution condemned acts of violence, especially the excessive use of force against Palestinians. And it "deplores the provocation carried out [at Holy places in Jerusalem] on 28 September 2000" by Mr. Sharon.

In a nutshell, then, these are my feelings on the visit by the President of Israel. I want so badly for it to be understood that we

all need to work toward a solution. Canada's reputation has earned us a particular mission in the world. When are we going to understand this? Canada is liked. However, Canada is not playing its role, out of timidity or for some other reason. What is keeping us from playing the role we could really play with both sides, because of the friendship we enjoy within this country and the friendship we enjoy all over the world.

These are my thoughts, the first time I have put them down on paper. I shall shortly be addressing the contribution made by the Jewish diaspora throughout the world.

I will name names and give examples, examples of people who fascinate me, people who have shaped me, people to whom I turn when I seek greater understanding. I tell myself that it is impossible that people who have contributed so much to humanity could be incapable of finding a solution to a problem that runs the risk of degenerating into a conflict of unpredictable consequences.

**Hon. Pierre Claude Nolin:** Honourable senators, with leave of the Chamber, I would like to ask Senator Prud'homme a few questions.

**Senator Prud'homme:** Honourable senators, I am agreeable to that.

**Senator Nolin:** You are certainly an expert in the Middle East situation, and have been for nearly 40 years. Might I take the opportunity of your inquiry to ask a question about a current event? As you know, Crown Prince Abdullah of Saudi Arabia has come up with a peace proposal. I certainly do not know everything about it, but it could be summarized as follows: The Arab states, which were among those who voted against resolution 181, would recognize the State of Israel, if Israel were to withdraw from the Gaza Strip and the West Bank, and if a significant portion of it, East Jerusalem, were to return to Moslem control. What is your opinion of Prince Abdullah's proposal?

**Senator Prud'homme:** Honourable senators, I know Prince Abdullah personally. I had the honour to accompany His Honour, Speaker Molgat, to the Middle East, where we met with him, and also to accompany the Prime Minister, the Right Honourable Jean Chrétien, to Saudi Arabia, where we met with him and with the Minister of Foreign Affairs, who has been in this position for 27 years, and is the son of former King Faisal, and whose friendship is an honour for me.

•(1700)

If only people would listen to this peace proposal. Prime Minister Sharon has implicitly rejected it. If only people realized this may be a step toward a solution.

I would like to mention to Senator Nolin, with all the gravity and all the intensity I can still muster, that I am all the happier today of his question and of this text because there are new senators among us. I would like them to understand that these have been my real motivations throughout my life. They never changed. No solution is possible, and no survival is possible unless they accept one another.

[ Senator Prud'homme ]

Prosperity could be there for all to share. This area could bring about prosperity. These people should recognize one another. This unusual initiative, an old idea of prince Abdullah, is certainly a step forward that Canada should consider more carefully. We should make our position clearer. My answer to the senator's question is that this is indeed a possibility, but it is not by any means the only one. Nothing is easy. If we say from the outset that it is difficult, we will not do anything. I am an optimist by nature.

That is why I attended the dinner last night despite minor incidents. I had accepted the invitation even before one of our colleagues urged us to attend. I think that, as Canadians who want to find a fair balance, we should step forward and hold out a hand.

Could you explain to me, honourable senators, what people see in Canada that is so extraordinary? It took Prince Aga Khan, the spiritual leader of the Ismaili community, to tell to us in a long interview to the *Globe and Mail*. He said that he came to Canada looking for inspiration. He wanted to see how people from different racial backgrounds can live together. We have a responsibility to show them that it is being done here. It could be done over there as well.

**Senator Nolin:** Is the proposal by the Crown Prince in contradiction with the oft-repeated position of all Canadian governments since 1948? Is there a contradiction between the Saudi proposal and the Canadian position?

**Senator Prud'homme:** No, they are saying "Recognize us." It is the Canadian policy you just explained. I have the feeling Prince Abdullah looked at the Canadian policy and borrowed from it. This is the Canadian position. In return for mutual recognition, they will be able to have political and economic relationships — they might not be friendly at first — but they will have civilised relationships and they will recognize each other, provided that the right to exist and the right to protection are accepted for both. There needs to be two viable states. We Christians seem to have abandoned Jerusalem, even though it belongs to us too. I was born a Catholic and I am attached to the Holy Places. We must be involved, as actively and passionately as I am.

**Hon. Laurier L. LaPierre:** I just want to tell the Honourable Senator Prud'homme that I have been following his career since 1964. He has shown superb courage. When nobody was talking about the issue, he showed throughout Canada, and probably the world, great courage — which cost him dearly, both personally and in terms of his career. I thank him for that.

I only wanted to ask him if he would accept my compliment.

**Senator Prud'homme:** I greatly appreciate the comment made by Senator LaPierre, whom I have known for ages. I thank him very much.

[English]

**Hon. Nicholas W. Taylor:** If there are no more questions, honourable senators, I move adjournment of the debate.

**The Hon. the Speaker pro tempore:** Are there any more questions?

**Hon. Anne C. Cools:** Honourable senators, I was prepared to take the adjournment if Senator Taylor had not. I was just thinking what a wonderful speech this was. The senator talked about Lord Moyne and Count Bernadotte. At some point in time, I should like to speak to this matter.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## ISSUES IN RURAL CANADA

### INQUIRY—DEBATE CONTINUED

On the Order:

Resuming debate on the inquiry of the Honourable Senator Andreychuk calling the attention of the Senate to issues surrounding rural Canada.—(*Honourable Senator Andreychuk*).

**Hon. Terry Stratton:** Honourable senators, I should like to speak briefly on this item, particularly with respect to the issues involving rural Canada. As Senator Gustafson pointed out yesterday in a question, on which I asked a supplemental question, there have been dramatic effects of weather on rural Canada, particularly in the West. It is unbelievably dry and arid. The situation is quite frightening. With this simple explanation, I firmly believe that we should continue the debate on this matter. I ask permission of honourable senators to start the clock again.

On motion of Senator Stratton, for Senator Andreychuk, debate adjourned.

## RESPONSE OF NEWFOUNDLAND COMMUNITIES FOLLOWING EVENTS OF SEPTEMBER 11, 2001

### INQUIRY—DEBATE ADJOURNED

**Hon. Joan Cook** rose, pursuant to notice of March 5, 2002:

That she will call the attention of the Senate to the response of Newfoundland communities following the tragedy of September 11, 2001.

She said: Honourable senators, the events of September 11, 2001 will not soon be forgotten in the history of humanity. During and immediately following the evil carnage in New York City, Washington, D.C. and just outside the City of Pittsburgh, a better side of our species was revealing itself.

About mid-morning on September 11, air traffic control centres at St. John's, Gander and Goose Bay, Newfoundland and Labrador were informed that suicidal hijackers had crashed commercial jets into the Pentagon in Washington and the World



Trade Center in New York City. Following this information, His Worship Claude Elliot, Mayor of Gander, was informed that all U.S. airspace was closed, and that Canada had followed suit in ceasing all domestic flights. He was told that much of the overseas air traffic bound for the United States would be diverted to those airports.

Before the end of the day, St. John's had received some 4,000 stranded passengers from 27 planes, and Gander had 38 planes on the ground with 6,595 passengers. Gander is a smaller town but, because of its strategic importance during World War II and transatlantic commercial viability following that period, it continues to maintain its long runways, which made it the most logical choice for landing capacity. Mayor Elliot immediately declared a state of emergency, putting the town of Gander on alert. He knew that the town, with a population of 10,500, would have to make preparations to accommodate an uncertain situation for an indefinite period.

Honourable senators, most of you are aware of the information that I have just shared. I will not elaborate as it has all been well publicised in all areas of the media, from CBC's *National* to CBS's *Prime Time*. However, I do want to bring to your attention the events that followed in the four days after September 11.

After being told that their flights were being diverted, most of the passengers parked on the runways of Gander had no idea where in the world they were. One passenger commented, after leaving a plane 24 hours after landing, "Now I know why we had to wait so long. These people have been preparing to take care of us." Food and supplies were delivered to planes, but it took some time and ingenuity to organize accommodations.

As soon as the word was out, the towns of Gander, Appleton, Glenwood, Lewisporte, Gambo and Norris Arm had opened up their schools, their churches, their service clubs and their homes to care for those stranded and to offer some level of comfort and security in their hour of need.

Lewisporte is a small seaport town with a population of 4,000 located 60 kilometres northwest of Gander. When the bus arrived, Mayor Bill Hooper was there to extend a personal greeting. By that time, most of the accommodations had been arranged in public facilities, with one or two exceptions. All elderly passengers were given no choice and were taken to private homes. A young pregnant woman was housed in a private home just across the street from the 24-hour emergency facility.

When those travellers left their planes, they had their first opportunity to view what had taken place. All were overwhelmed, distressed, and in various states of shock and disbelief. To have had any concern for matters presently crucial or important in one's personal life seemed somewhat selfish and left one guilt-ridden.

Those words were used by an Australian family who were experiencing a medical emergency back home. Once they were set up with housing in Gambo, a church secretary took them

under her wing and set up immediate and constant communication with Australia. They left Gambo knowing that the family crisis was now stable.

A British couple had their honeymoon interrupted. They, too, were housed in Gambo. There was little time for thoughts of what might have been. Once their predicament was identified, a family in the community invited them home and gave them privacy, but also arranged barbecues, organized tours and generally kept them so busy that they had a honeymoon they will never forget.

Honourable senators, the media archives are filled with many such wonderful stories from this tragic period. If there is any silver lining anywhere in this tragedy, it is of unique experiences, special relationships and friendships forged that will last a lifetime. Much has been written about how grateful the travellers were for the warm and open hospitality they received from the Newfoundlanders, but not everyone is aware of how grateful they were in the aftermath of their tremendous ordeal. I do know that whatever Newfoundlanders did for their unexpected guests was a natural and sincere response with no thought given to monetary return.

In the meantime, Newfoundland's guests had their own ideas of reciprocation, and I feel it needs to be expressed. Honourable senators, one of the passengers was a vice-president of the Rockefeller Foundation who was returning from Milan with five colleagues. They, along with others, were accommodated at Lewisporte. The group was housed in a church and used the school's computer lab as their communications centre. At the time, they saw no need to be identified, as they were just people among people caring, praying and surviving. A humorous statement followed later that "no one knew that the Rockefeller Foundation was being run for four days from the computer lab of Lewisporte Middle School." Recognizing the need for equipment upgrading, the Rockefeller Foundation donated \$80,000 to the Lewisporte Middle School for that purpose.

The passengers and crew of Delta's Flight 15 agreed to set up a trust fund for scholarships for Lewisporte high school students. I am told that they have pledged in excess of \$40,000.

In addition to these sums, I have been informed as well that many of the churches, service clubs and schools in all the communities that appeared to be in need of funds for any type of improvements have received amounts ranging from \$250 to \$28,000, totalling in excess of \$100,000.

In closing, I should like to pay tribute to the citizens of the communities in Newfoundland and Labrador who opened their hearts and homes during this world crisis and to the stranded passengers who have acknowledged this goodwill in so many ways. They have both given us renewed faith in the strength of human kindness, in the face of such gross adversity.

**Hon. Senators:** Hear, hear!

On motion of Senator Rompkey, debate adjourned.

## OFFICIAL REPORT

REPLACEMENT OF HEADING "INFLUENCE ON HATE CRIMES  
OF BILL TO REMOVE CERTAIN DOUBTS REGARDING THE  
MEANING OF MARRIAGE"—MOTION WITHDRAWN

That the *Debates of the Senate* of Thursday, November 22, 2001, in Senators' Statements at page 1757 in the heading "Influence on hate crimes of bill to remove certain doubts regarding the meaning of marriage" be corrected by replacing that heading with a more accurate heading, being "Informing the Senate of the tragic murder of a homosexual man in Vancouver's Stanley Park" and also that all other corollary Senate records, including the *Debates of the Senate* Internet version, be corrected in this manner because:

(a) it is desirable and honourable that Senators during Senate debate uphold the principled practice that Senators and Senate debate ought not to be linked to any murder or violent anti-social behaviour; and because

(b) it is desirable and honourable that there be no attempt to connect a terrible and tragic murder to a Senate debate or to any Senator's participation in a Senate debate because such connection is offensive to the extreme; and because

(c) it is desirable and honourable that for the proper functioning of the proceedings under Senators' Statements that all Senators uphold Rule 22(4) of the *Rules of the Senate* which states in part:

"In particular, Senators' statements should relate to matters which are of public consequence and for which the rules and practices of the Senate provide no immediate means of bringing the matters to the attention of the Senate. In making such statements, a Senator shall not anticipate consideration of any Order of the Day and shall be bound by the usual rules governing the propriety of debate."; and because

(d) it is desirable and honourable that all honourable Senators uphold the high standard of virtue that as Canadians we all share a common and collective humanity such that any person's death diminishes us all, for we are all connected.

**Hon. Anne C. Cools:** I should like to thank Senator Jaffer for that correction. Her request for it satisfies any concerns that I had. Consequently, I submit that the need for Motion No. 96 has been obviated, and I request that it be removed from the Order Paper.

**The Hon. the Speaker *pro tempore*:** Is it agreed, honourable senators, that the motion be removed from the Order Paper?

**Hon. Senators:** Agreed.

Motion withdrawn.

[Translation]

## ADJOURNMENT

Leave having been given to revert to Notices of Government Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourn until Tuesday, March 12, 2002 at 2 p.m.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is it your pleasure to adopt the motion?

**Some Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, March 12, 2002, at 2 p.m.





**PROGRESS OF LEGISLATION**  
(1st Session, 37th Parliament)  
Thursday, March 7, 2002

**GOVERNMENT BILLS**  
(SENATE)

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd 01/06/06	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01	01/12/18	30/01



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament	02/03/05	4			
S-40	An Act to amend the Payment Clearing and Settlement Act	02/03/05							
S-41	An Act to re-enact legislative instruments enacted in only one official language	02/03/05							

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negated 01/12/10	11 1 at 3rd 01/12/13	01/12/18	02/02/19	1/02
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs	02/02/19	2			
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce					
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	01/12/18	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-27	An Act respecting the long-term management of nuclear fuel waste	02/03/05							
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-30	An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts	02/03/05							
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	01/12/18	33/01
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	01/12/18	28/01



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21)	01/11/27	Energy, the Environment and Natural Resources					
	01/11/22 (reintroduced)								
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	01/12/18	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs					
C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples	02/02/19	0	02/02/20		
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources	02/03/07	0			
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0	02/02/21		
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08 Senate agreed to Commons amendment 01/12/12	01/12/18	36/01
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology	01/12/14	0			
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10	01/11/27	0			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12		Transport and Communications					
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)	(01/12/14)				
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Metis People (Sen. Chalifoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13							
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							
S-39	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/02/19							

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	42/01
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01

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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT •

VOLUME 139

• NUMBER 95

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 12, 2002

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THE HONOURABLE ROSE-MARIE LOSIER-COOL  
SPEAKER *PRO TEMPORE*



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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Tuesday, March 12, 2002

The Senate met at 2:00 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### VISITOR IN THE GALLERY

**The Hon. the Speaker *pro tempore*:** Honourable senators, I draw your attention to the presence in the gallery of the Honourable Namik Dokle, Speaker of the People's Assembly of the Republic of Albania.

On behalf of all honourable senators, I welcome you to the Senate of Canada.

### THE LATE HONOURABLE FINLAY MACDONALD, O.C.

#### TRIBUTES

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, at Finlay MacDonald's funeral service last week, the celebrant spoke of the service as a celebration of life, and surely few would disagree that no one could fit that purpose better than our good friend the late Finlay MacDonald.

Yes, our late colleague enjoyed life to the utmost, and anyone fortunate enough to be a friend or an acquaintance, a fellow Conservative or a political rival, could only benefit from being associated with this remarkable individual.

Anecdotes about him are endless, and many he loved to tell himself. Certainly he never hid his ambition to be in the Senate or spared any effort to court anyone who could further his goal, including the decision-maker himself. In 1979, the list of deserving candidates was embarrassingly long, for the exile in the political wilderness had lasted some 15 years. Finlay's name had proceeded to the point where he received a phone call asking a number of pertinent questions. At that time, in Nova Scotia, one's religious affiliation was not a negligible element in coming to a final choice. When asked what his religion was, Finlay is reputed to have replied, "Which one would you like?"

What was not to be in 1979 came about in 1984. Finlay gave a huge sigh of relief, explaining that he had spent too much time on having the knees of his trousers repaired so often, while Prime Minister Mulroney once confided that the only reason he appointed Finlay was to have him stop grabbing onto his leg.

Whatever the nature of his efforts, we should all be grateful that Finlay persisted as he did, for during his years here he served Parliament in a most exemplary way. He was not the easiest member of caucus or chairman of a special committee, yet all recognized in him a determination to do what he felt was best, even if it meant ignoring the party line no matter how essential his vote. Finlay was one of that rare breed — a long-time active and committed participant in every aspect of his political party's

activities, yet one not afraid on occasion to march to his own drummer.

That in doing so he still retained the respect and even the affection of those he annoyed and even angered is an extraordinary tribute to this fine man's character and intellectual honesty. Rare can such an appreciation be given to anyone, and I am honoured to do so in memory of a most distinguished colleague and good friend.

**Hon. B. Alasdair Graham:** Honourable senators, I join with the Leader of the Opposition in paying tribute today to the late Senator Finlay MacDonald.

Reference has been made to Finlay's desire to be appointed to this chamber. I recall very well the day he was appointed. The ink was hardly dry when he arrived in my office, measuring the space by the square inch to ensure that whatever digs he was able to occupy would be at least as large, if not larger, than those that I occupied.

The raw humour and formidable penetrating wit of the legendary Robbie Burns has a great following in the part of the world that some of us come from.

Gie me ae spark o' Nature's fire,  
That's a' the learning I desire;

Those words of his come to mind when I think about the wonderful life and times of our old friend Finlay MacDonald. A spark of nature's fire. Yes, that was Finlay: ageless, timeless, a charmer and an entertainer par excellence. Beneath that convivial, fun-loving personality was a deeply committed and informed patriot with an enormous heart for the people of Nova Scotia and, indeed, the people of all of Canada.

A Red Tory, Finlay was always a man of independent mind who believed in what he did, and the devil take whoever tried to dissuade him from his convictions. Not that he was not a team player. He was — most of the time. But he was one of the few people I have met who could vote against his own government, sail through the onslaught, and still be invited to 24 Sussex and any other high-level government soirée in the nation's capital.

Finlay was always the lovable silver fox. No matter how you disagreed with him, no matter how contentious the issue, he could always make you laugh in spite of yourself.

I speak from long experience. Early in life, we both became broadcasters. Finlay was much more successful than I. We both dabbled in politics, budding politicians both, and that, believe it or not, was over 40 years ago. We probably were prime illustrations of Shaw's acerbic reference to erstwhile practitioners of the craft. Shaw once quipped:

He knows nothing and thinks he knows everything. That points clearly to a political career.

• (1410)

No matter how you look at political life, the March 31, 1958, federal election campaign became a watershed from which neither one of us ever turned back. That was the year of the Diefenbaker sweep. I was the Liberal standard bearer in the great historic constituency then known as Antigonish-Guysborough. Finlay was the fundraiser for the Progressive Conservative party in Nova Scotia.

According to legend, he arrived in Antigonish the day before the election and brought with him a significant amount of aid for the benefit of my opponent. It was just enough to help do me in. I lost by 931 votes. Undoubtedly, as honourable senators opposite would hasten to point out, there were other good, valid and perhaps compelling reasons that I was defeated.

At any rate, the day after the election, I went to Halifax to seek solace and comfort from my friends. Who better to visit than the legendary bonhomie himself. Finlay greeted me with long strides, arms wide open and with a wide, wide, grin. "Well, well," he shouted, "welcome to the youngest political has-been in Canadian history." I should have known better. It was April 1.

Honourable senators, that in a nutshell was Finlay MacDonald. He could crush you; he could mortify you; he could make you laugh like none other.

When Finlay was Chairman of the Standing Senate Committee on Transport and Communications in this place, he and I did a lot of puffing and blowing over the government's intention to privatize the Truro-Sydney rail line. Many in this chamber, including the Honourable Senator Forrestall, would remember those discussions well. We chugged along together on opposite sides of the issue, making our points and sometimes mischievously trying to outmanoeuvre the other, always with what we thought was the public good uppermost in our minds.

When I think of Finlay today, I think of him with the whole panoply of Tory greats in Tory heaven: Prime Minister John A. Macdonald would be much Finlay's match both in terms of personal charm and certainly in the fine dapper and rakish figure he cut. Sir John was a shrewd, wily fox, much as Finlay was. Both were at the same time visionary patriots with a huge penchant for optimism.

Canada's first Prime Minister once said: "When fortune empties her chamber pot on your head, smile and say, 'We are going to have a summer shower.'" Well, that was the same way Finlay thought about life. He had the magician's gift of turning chamber pots into the soft and gentle rain of happiness, of bringing joy and laughter into the lives of all he met. A spark of nature's fire, you were indeed, Finlay. From the pen of the same great Scottish scribe Robbie Burns, the ultimate praise for a life to be celebrated, not mourned:

If there's another world, he lives in bliss;  
If there is none, he made the best of this.

To Lynn, Finlay Junior, Ian, his very special grandchildren, his brother Dr. Cameron and members of his extended families: Happy memories, rejoice in his love and his many accomplishments. Finlay was indeed a unique treasure who

enriched life for many people and this, his beloved Senate chamber.

**Hon. Senators:** Hear, hear!

**Hon. Lowell Murray:** Honourable senators, in the 1950s, Finlay offered to hire me; in the 1960s, we worked together on Stanfield's campaigns. One day in 1968, I coached him for a few words in French to start the countdown here on Parliament Hill for the 1968 summer games.

In 1970, the provincial cabinet minister Gerald Doucet and I — party crashers — were the uninvited third and fourth participants in the celebration Finlay and his first wife, Anne, had carefully planned for their 25th wedding anniversary in Ingonish, Cape Breton.

Later, Finlay and I were joined in Joe Clark's campaigns and then Mulroney's. I rejoiced with his friends in his happy second marriage to Lynn Tremblay. I was among the speakers, which included Don Jamieson, Brian Mulroney, Eddie Goodman and Flora MacDonald, at his sixtieth birthday bash at Toronto's Albany Club in 1983, and helped him celebrate his sixty-fifth at an impromptu party in Senator Doody's office in 1988. I was among the speakers at the party to celebrate Finlay's arrival in the Senate in 1985 and at the dinner to mark his departure in 1998. Fortunately, there is not, so far as I am aware, any trace on the public record of any of these speeches.

On the day of his passing, I arranged to have a Mass said in my parish in the certain hope of improving his immortal prospects and my own. Then I poured a martini in his honour, gin not vodka. A while ago Finlay told me that he and Dalton — that would be his great friend Dalton Camp — had sworn off vodka "because it makes us argumentative." Those two would be argumentative on a cup of warm tea. For the believer, as he was and I am, all that remains is the ultimate reunion. Needless to say, I am in no hurry to join him. However, his going ahead heightens one's sense of anticipation.

**Hon. J. Michael Forrestall:** Honourable senators, what does one say about Finlay? Dr. Edmund Morris, a long distinguished member of the other chamber and a close friend of Finlay's, went on at great length the other day at the conclusion of the mass celebrating his life — indeed, would have gone on and probably still is going on — with stories about this man's love of life, about his sincerity, about why it should be days of enjoyment, of reaching out to other people and of making contributions.

I recall that Senator MacDonald had invited Senator Murray to join him in broadcasting back in the fifties. Well, he never invited me to join him in broadcasting. Robert Stanfield had invited me to join his crowd the day after the then managing editor of the *Halifax Chronicle-Herald* had fired me for political activity. I had one problem, however; I was married with a young family then and I needed medical insurance. Who came to my rescue? CJCH and Finlay MacDonald. I was a employee of that firm for perhaps longer than most people had worked there — not Finlay himself but most others — that was how my wife and I had protection. It was not that my wife and I necessarily needed it but it was the impoverished political coffers of the day. I was the field-man or whatever you called it in those days.



Left out of today's discussions is another distinguished Nova Scotian, R. McD. Black. I would urge those of you who want good stories to find someone who can tell you of the trip that R. McD. Black and Finlay MacDonald made to the United Kingdom for Mr. Black, who was the editor and publisher — indeed the owner — of the *Amherst Daily News*, to buy a new press for that very old newspaper. Finlay was going, of course, to find partners in television.

• 1420 •

The story of their trip to Europe is too long to tell here, but there are probably nine different stories that would lend the insight, for anyone who has the interest, to fully understand Finlay MacDonald. One has to understand who Rod Black was and what he did during the war. He was with the Pathfinder Squadron. I will tell one story briefly.

When the plane landed, an Air Canada flight, incidentally, in London, the first person off the plane was Finlay MacDonald. Standing at the tarmac was Rod Black's flight crew. They went right up to Finlay, and he said, "You must be Flight Lieutenant Graham, and you are his good wife. He has told me so much about you. You must be the navigator. You are the one that Rod gave his parachute to the day you were shot down for the first time." He went through the whole crew. Rod had gathered his bags and was coming down the ramp. There stood four of the most skeptical looking men you have ever seen in your life. What in hell had Finlay MacDonald told them in Canada about us? Finlay just walked right on and left Rod to wonder for days and days just what stories Finlay had told. Finlay was, perhaps, the greatest practical joker that I have ever met in my life.

Finlay was a good man. At the gathering the other day, Finlay Jr. turned and said, "Do not expect my dad to be high on the list for sainthood and canonization. He was not that, but he was a good man." He brought great joy to all those who knew him, as Lynn brought great joy to him in the final years of his life, a smile to his face, the hope, and the great feeling he had that it is almost irreplaceable.

I join with all those who extend their condolences to Lynn, Finlay Jr., Ian, Mary, the grandchildren, Dr. MacDonald, his brother, in particular those who knew him so well for 50 years in his active and enjoyable pursuit of politics. He believed that a life in politics was honourable, and nothing in his career here hurt him more than to have had to break his perfect attendance record.

God bless you, Finlay. Keep the home fires burning because we will all be along shortly.

[Translation]

**Hon. Gérald-A. Beaudoin:** Honourable senators, I too wish to pay tribute to Finlay MacDonald, an esteemed colleague. This was a man who took his work as a senator very seriously. He was involved in a number of committees, Transport and Communications in particular, which he chaired. Senator MacDonald distinguished himself through his committee work

and in the business of the Senate. A man of great joie de vivre, he was a most agreeable colleague.

The Senate has not been quite the same since he left it, and today more than ever.

I extend my most sincere condolences to his wife Lynn and their children.

## SENATOR'S STATEMENT

### UNIVERSITY OF OTTAWA HEART INSTITUTE TELETHON

**Hon. Marcel Prud'homme:** Honourable senators, I would like to offer our warmest thanks to one of our Senate colleagues

[English]

Honourable senators may have seen the University of Ottawa Heart Institute telethon on the weekend. It is not too late to contribute. That is the lifeblood of the Honourable Senator Keon, who achieved one of the highest amounts ever raised for an immensely important cause. They raised over \$3.4 million in the region. I am sure that all honourable senators will join me in thanking the honourable senator for his devotion to this cause and in congratulating him, the organizers and those who contributed for the success of this event.

## QUESTION PERIOD

### HEALTH

#### STATUS OF LEGISLATION TO ADDRESS HUMAN TISSUE AND STEM CELL RESEARCH

**Hon. Wilbert J. Keon:** Honourable senators, I have a question for the Leader of the Government in the Senate. The minister will recall that last fall I asked a question, drawing attention to the concern surrounding the legislation for reproductive biology. My concern was that this legislation was not moving quickly enough in view of the commission report eight years ago and in view of the fact that scientific progress was moving at an accelerated pace and that rules, regulations and guidelines were being developed in the scientific community before the legislation was introduced. We now find ourselves in a situation where rules and regulations from the scientific community have arisen in the absence of legislation, which is causing real consternation in the community at large and in the eyes of the public.

Is there any possibility that the process for moving this legislation forward through the other place and into the Senate could be accelerated to alleviate some of the pressures confronting scientists in this field at the present time?

[ Senator Forrestall ]

• (1430)

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, Honourable Senator Keon raises an extremely important issue. We now have the report from the House of Commons Committee on Health, which has outlined certain provisions that they would like to see in any bill which is introduced. It is my understanding that the new Minister of Health will be introducing the bill on reproductive biology quite soon.

Obviously, there are a number of concerns out there, particularly since the CHRC guidelines came out over a week ago. Quite frankly, I believe those were absolutely necessary in order to provide a framework for cell research in Canada at this point, particularly since we have no legislation in place. However, I am informed that proposed legislation will be before us shortly.

## NATIONAL DEFENCE

### SEARCH AND RESCUE—ACCIDENT INVOLVING LABRADOR HELICOPTER—STATUS OF HELICOPTER FLEET

**Hon. J. Michael Forrestall:** Honourable senators, I have a couple of brief questions for the Leader of the Government in the Senate.

The minister will know that one of our search and rescue Labrador helicopters, stationed at Greenwood, Nova Scotia, had an unfortunate incident yesterday during preparation for take-off when its rotors went through the frame of the aircraft. I understand from press reports that this may have been the result of the vagary of the wind.

In any event, would the minister tell us what she knows about this incident? In particular, would she address the present status of the helicopter fleet?

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, the incident that took place in Greenwood, Nova Scotia, fortunately for all concerned, caused no injuries. However, as a result of the incident, a team of flight safety officers is currently in Greenwood investigating the cause of the damage to the Labrador helicopter. Since it is not equipped to fly at this point, the helicopter has obviously been withdrawn from service, and a Sea King will be covering the search and rescue responsibilities of that Labrador aircraft.

**Senator Forrestall:** Honourable senators, I am thankful that no one was injured and I appreciate the minister's response.

This brings me to the concern that many of us share. As the minister will know, the Sea King is the primary alternate for the Labrador fleet in search and rescue operations. The Sea King fleet and its crews are now stretched to the limit by Operation Apollo. Can the minister tell us what the current status of the "heli-borne" search and rescue operations are on the East coast, as well as in the rest of Canada? What steps is the government taking to ease the impact of search and rescue duties on the Sea King community, which is already stretched to the limit?

**Senator Carstairs:** As the honourable senator knows, there has been an intensive use of the Sea Kings in Operation Apollo. A number of our ships are home to the Sea Kings in the war against terror. There is, as the honourable senator has indicated, serious pressure on the whole search and rescue component.

The good news is that, although the normal review processes caused a delay in the delivery of the Cormorant helicopter, four out of the five have now reached Comox, British Columbia. The fifth left Italy today and will be ready for its snow trials in Gander before going on to Comox. The expectation is that the whole fleet will be operational by the spring of 2003.

## FOREIGN AFFAIRS

### ZIMBABWE—POSITION OF PRIME MINISTER ON GENERAL ELECTION

**Hon. Gerry St. Germain:** Honourable senators, my question is for the Leader of the Government in the Senate.

I find it confusing — and perhaps the minister can explain — that the Prime Minister took the position he did regarding the suspension of Zimbabwe from the Commonwealth, given the track record of Robert Mugabe and the way he has treated the white people, as well as his own people, in that country.

**Senator Furey:** The "Whiteys."

**Senator St. Germain:** Does the minister have an explanation for that?

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, I believe the Prime Minister took the position he did because Zimbabwe was in the middle of an election campaign, the results of which we will soon receive, as the vote counting begins today.

As I am sure the honourable senator is aware, there have been numerous reports of voting irregularities and vote stoppages. The Prime Minister's position was that we should allow this process to be completed, and if it could be clearly shown that the process was unfair and inequitable to the vast majority of the citizens of Zimbabwe, at that point we should act as a member of the Commonwealth.

### DIPLOMATIC APPROACH TO EVENTS IN COUNTRIES OF AFRICA

**Hon. Gerry St. Germain:** I have a supplementary question, honourable senators. It should be no surprise that there were vote stoppages and an intervention in the electoral process. However, it seems that we have different standards on the world scene. My colleague who sits behind me is a strong supporter of the UN. For some odd reason it seems that, when things happen in Africa, the world stands back as mass genocide takes place, as it did in Rwanda and Zaire and other places, yet we are prepared to send troops into Serbia on a moment's notice because it possibly serves a president in a dilemma or an economic need. Is there a double or a triple standard here?



**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the simple answer to the honourable senator's question is no, there is not a double standard. The situation was such that Mr. Mugabe called elections. He indicated that they would be fair and equitable. The Government of Canada indicated that it would send observers in to ensure that the election was fair and equitable, and that we would make a decision following that electoral process.

**Senator St. Germain:** Honourable senators, the minister still has not answered my question. I understand that the minister is focusing on Zimbabwe. My supplementary was the following: There appear to be different standards for different countries, or different continents. If we are to take a leadership role in delaying something, such as the expulsion of Zimbabwe from the Commonwealth, I believe that we should take a leadership role in this country with regard to equal treatment for all, whether black, white, yellow, pink, beige, or whatever. Does the minister not agree?

**Senator Carstairs:** Honourable senators, I obviously do agree because I indicated there was not a double standard at play here. Every incident, however, must be judged on its own set of facts, and the facts between two incidents are rarely equal.

## NATIONAL SECURITY AND DEFENCE

### REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

**Hon. W. David Angus:** Honourable senators, last week the Honourable Senator Cochrane and I asked the Honourable Leader of the Government in the Senate about the government's intentions respecting the outstanding report of the Committee on Defence and Security. We were advised that the government needed time to take cognizance of and to consider the report.

It seems clear that the national media, and many others in this country, have had plenty of time to take cognizance of and consider this report. For example, in an editorial in the *Montreal Gazette* this past Saturday, March 9, the editor wrote:

The alarming findings Senator Kenny and his colleagues turned up now become the business of the federal cabinet. Ports involve various ministers, combining as they do transport, world trade, Customs, drug issues and more. Ministers should move promptly to use the Inquiries Act, because we have seen that the current security situation has loopholes you could — literally — drive a tractor-trailer through.

• (1440)

Honourable senators, my question is again to the Leader of the Government in the Senate: When will the government do justice to this excellent Senate committee report and implement the recommendations set forth therein?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I wish to thank the honourable senator for his question. I do not think it will surprise Senator Angus if I explain to him that I specifically asked, this morning, the

Minister of National Defence whether the minister and his department would be carefully studying and analysing this report. He assured me that that is exactly what he would be doing. Clearly, the work of our Senate committee will not go unrewarded in that respect.

In terms of the committee's comments with respect to Canadian ports, the honourable senator knows that basic security functions at the ports fall under the local law enforcement in the communities in which those ports exist. There is now an agreement that the United States and Canada will be working into place on inspections in those ports, whereby both Canadian and American customs agents will be working side-by-side to ensure that containers are inspected to a greater degree than they have been in the past.

**Senator Angus:** I wish to thank the minister for that rewarding answer.

I should like to ask a supplementary question following from the editorial I cited from the *Gazette* on Saturday, March 9, 2002:

Finally and most important, they proposed a full-scale investigation of organized crime in our ports. This would be carried out under the Inquiries Act, which gives investigators subpoena power and other tools needed to get right to the bottom of a situation.

I refer the minister to page 129, recommendation no. 8 of the report, with reference to national security:

The committee recommends that a public inquiry under the Inquiries Act into significant ports be established as soon as possible, with a mandate that would include...

Six specific items are then listed.

As I asked last week, my question is again: Will the government convene an inquiry of this nature under the Inquiries Act?

**Senator Carstairs:** Honourable senators, no decision has been made at this point whether such a public inquiry will be undertaken. However, I shall certainly inform the Government of the desire of Senator Angus for such a public inquiry.

## FOREIGN AFFAIRS

### UNITED STATES—POSTURE REVIEW ON DEPLOYMENT OF NUCLEAR WEAPONS

**Hon. Douglas Roche:** Honourable senators, my question is for the Leader of the Government in the Senate.

Reaction around the world to the news reports of the United States' nuclear posture review, which projects the role of nuclear weapons to fight future wars and has led to contingency plans to target seven countries, has been overwhelmingly negative. *The New York Times* today called for President Bush to send the document back to its authors and asked for a new version, less menacing to the security of the world.



Will Canada join other nations in raising its voice to protest the U.S. policy which projects the deployment of nuclear weapons into the future instead of abiding by international law and entering into a process of negotiation toward the elimination of nuclear weapons?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Honourable Senator Roche raises an important issue. The Canadian position has been clear for some decades now and remains exactly the same; there has been no change. It is also important that we listen carefully to what the Vice President of the United States said yesterday. Vice President Cheney said that there had been no change in their position either.

UNITED NATIONS—MEETING ON NUCLEAR NONPROLIFERATION  
TREATY—FULFILLMENT OF COMMITMENTS MADE IN 2000

**Hon. Douglas Roche:** Honourable senators, I wish to thank the minister for that answer. However, the Canadian people need the reassurance of a formal statement that their government will uphold international law and not succumb to a war mentality that, unfortunately, drives much of the U.S. nuclear posture review.

I would ask the minister if she would convey these thoughts to the Minister of Foreign Affairs and perhaps obtain a delayed answer to this question: Will Canada use the occasion of the non-proliferation treaty meeting, starting April 8, 2002, at the UN, to call on the U.S. and other nuclear weapon states to fulfil their commitment made in the year 2000 to the unequivocal undertaking to eliminate nuclear weapons through demonstrable progress on the 13 steps to which the international community agreed to in 2000?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Canada's firm position on non-proliferation as well as its attendance at the meeting is proof of the position that Canada will take at that particular meeting.

I shall also inform the minister of the desire of Senator Roche for a formal statement to that effect.

[Translation]

ISRAEL—RECALL OF AMBASSADOR

**Hon. Marcel Prud'homme:** Honourable senators, the slaughter that is going on beneath our very eyes in the Middle East, with the uncontrolled attacks by the state against individuals, leads me to wonder whether the government intends to recall to Canada its ambassador to Israel for consultations, and to initiate actions either within the United Nations or with our friends and allies.

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, on behalf of the government, there is no plan to recall its ambassador to Israel. As the honourable senator will know, consultations take place between ambassadors and

officials at Foreign Affairs on a regular basis. They take place through other means of communication, not necessarily physically in one-on-one encounters.

## NATIONAL SECURITY AND DEFENCE

REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND  
DEFENCE ISSUES—PORT SECURITY

**Hon. Ethel Cochrane:** Honourable senators, my question is for the Leader of the Government in the Senate. Testimony by police and customs officers before the Standing Senate Committee on National Security and Defence confirms that Canada has no effective system to scrutinize foreign vessels landing outside major ports. Yesterday, an article appeared in *The Guardian*, in Prince Edward Island, in regard to security of small Canadian commercial ports and harbours. According to the article, Senator Kenny said:

...in many small ports, authorities rely on harbour masters or volunteer harbour watch groups to inform customs and other authorities about the arrivals of foreign ships.

In some ports, vessels arriving from foreign destinations are expected to contact customs themselves once they reach dockside.

The story also quotes Senator Kenny as saying, and I am sure we can all appreciate the truth in the statement:

Honour systems work with honourable people but they are useless when dealing with terrorists...

My question is for the Leader of the Government in the Senate: What is the government's solution to the security risks posed by foreign vessels at our smaller ports? What steps have been taken to reduce the risks?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for her question. The honourable senator referred to small ports. One would clearly have to know what is meant by a "small port." If we consider only ports such as Halifax and Vancouver as big ports, are we talking about very small ports or midsize ports? There are different standards and different abilities to take ships into those ports.

As to whether we are putting into place additional security in those small ports against potential terrorist attacks, I cannot give the honourable senator that answer. However, I shall try to obtain any information that is available.

**Senator Cochrane:** Honourable senators, I refer to ports other than the larger ports such as Halifax, Montreal and Vancouver.

As the honourable senator and I both know, if foreign vessels come into any ports other than the major ports, they will not report to Customs or anyone else that they are coming; they will just come. They could come overnight, and heaven only knows what they will drop off. These are the ports to which I refer today.

**Senator Carstairs:** Honourable senators, with the greatest respect, some of those vessels cannot go into our smaller ports because the smaller ports do not have the capacity to receive them.

•(1450)

In terms of whether they will not report, the honour system obviously must be in place to some degree. I do not refute Senator Kenny's statement that when dealing with terrorists there is probably not a great deal of honour. On the other hand, we have had no incidents of terrorists trying to use small ports as a mode of entry into the country.

Senator Cochrane has asked specifically whether there will be any stepping up of surveillance of small ports, and I will try to get an answer.

**Hon. Nicholas W. Taylor:** Honourable senators, as a sport sailor, I have had occasion to enter many ports in the United States where I have had to report in by dialing a 1-800 number and stating who I am. Likewise, probably thousands of sailors from the U.S. check into West Coast and East Coast ports in that same manner.

The issue is as much a tourist problem as it is one of security. When the honourable minister is talking to the government about terrorism, would she advise that small tourist boats far exceed the number of big boats that enter this country? The same is true for the number of Canadian boats entering American ports.

**Senator Carstairs:** Honourable senators, I thank Senator Taylor for his question. He has alluded to the number of small ports that exist in Canada. In addition to the East Coast and the West Coast, we have our northern coast. The United States has a huge number of small ports as well.

I am not sure whether it is possible to implement a defined system of security at every port in our two countries. However, I will be glad to share with the minister the additional information that Senator Taylor has put on the record.

[Translation]

## DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the delayed answers to two questions. The first one was raised in the Senate on February 19, 2002, by Senator Comeau, regarding the Federal Court ruling granting veterans status to a citizen on Prince Edward Island, and the second one was raised in the Senate on February 7, 2002, by Senator Robertson, regarding the European Free Trade Agreement.

## VETERANS AFFAIRS

### FEDERAL COURT RULING GRANTING VETERANS STATUS TO CITIZEN OF PRINCE EDWARD ISLAND

*(Response to question raised by Hon. Gerald J. Comeau on February 19, 2002)*

After consultation between the Attorney General of Canada and the Department of Veterans Affairs, a decision has been made not to appeal the Federal Court decision on this matter.

The issue has been referred back to the Veterans Review and Appeal Board, an independent tribunal separate from Veterans Affairs Canada, for their reconsideration on the basis of the Federal Court decision.

## INTERNATIONAL TRADE

### SHIPBUILDING INDUSTRY—EFFECT OF EUROPEAN FREE TRADE AGREEMENT

*(Response to question raised by Hon. Brenda M. Robertson on February 7, 2002)*

It is important to note that Norway has already removed its direct 9 per cent subsidy for new build ships as of December 31, 2000. In order to benefit from the subsidy, ships contracted before the cutoff date had to be delivered to the original purchaser within 3 years. These subsidized ships will be out of Norwegian production by December 31, 2003. It is also worth noting that the subsidy is contract related and if the ship is not built, the subsidy is lost. The subsidy is also forfeited if any of the parties pull out of the contract.

There are no other direct or indirect government subsidies that are directed at the Norwegian shipbuilding sector. There are, however, other support mechanisms such as the Norwegian Regional and Industrial Development Fund and the Norwegian Research Council but these are not specific to shipyards and are available to all Norwegian industries. However, it is important to note that Canada offers similar support through the Export Development Canada (EDC) and the new Structured Financing Facility (SFF) that is available under the new Policy Framework on Shipbuilding and Industrial Marine Industries announced last June.

In the unlikely event that Norway elects, at some point in the future, to reintroduce a subsidy, and Canada was in the process of reducing the existing tariff on ships and industrial marine products, under the terms of the proposed Agreement, Canada would be allowed to reimpose the original most favoured-nation rate of duty.

The Government of Canada has provided additional support to the Canadian shipbuilding industry, through the establishment of the aforementioned Policy Framework on Shipbuilding and Industrial Marine Industries. An industry-labour team offered recommendations to the Government on policies to revitalize the sector. This project provided another opportunity for the Government to further understand the issues facing the industry. The Government discussed the recommendations at length and subsequently introduced the new shipbuilding and industrial marine policy to address the competitiveness problems of the marine construction industry as well as creating the new funding program to help finance new work for Canadian shipyards.



In its response to the specific industry-labour recommendation that this sector be carved out of future free trade agreements, however, it was made clear that Canada would not consider this step.

Canada's economic prosperity relies very heavily on trade: Canada's trade represents 48 percent of our gross domestic product and creates one out of every three new jobs. Indeed, of all G-7 countries, Canada is by far the most reliant on trade for its prosperity — three times more reliant than the United States and four times more reliant than Japan. It is, therefore, very much in Canada's interest to promote trade liberalization and a rules-based trading system.

That being said, the Government nevertheless recognizes that the challenges faced by all industries are not the same. It was for this reason that the Policy Framework on Shipbuilding and Industrial Marine Industries was established. It is also why negotiators are developing special provisions for the shipbuilding and industrial marine sector in any eventual FTA with EFTA, and in similar agreements with Singapore.

In particular, the FTA would provide for a long transition period for the removal of the tariff, perhaps as long as ten years. It would also be our intention to allow the maximum period for the new Shipbuilding Policy to have effect, by ensuring a long pre-transition period during which the tariff would remain fully in effect. This approach would go a long way to ensure that all Norwegian ship construction which has benefited from direct subsidy is fully completed and the playing field is levelled.

Negotiators are also considering other approaches that might be undertaken within the structure of the agreement to mitigate the impact of open competition and to assist the transition of the Canadian industry to a more competitive position.

Before launching negotiations with EFTA in 1998, extensive consultations with Canadians were undertaken — both with industry and stakeholder organizations and with representatives of the shipbuilding and industrial marine industry. The Government has worked closely with these same groups throughout the process and will continue to do so. Many discussions have already taken place since the Policy Framework was announced in June, 2001.

#### PAGES EXCHANGE PROGRAM WITH HOUSE OF COMMONS

**The Hon. the Speaker *pro tempore*:** Honourable senators, before moving to the Orders of the Day, I would like to introduce to you two pages from the 2001-2002 page exchange program with the House of Commons.

[English]

On my right is Anne-Marie Christofferson-Deb of Montreal, Quebec. She is pursuing her studies in the Faculty of Social

Sciences at the University of Ottawa. Her major is political science.

On my left is Laura Gill, who is studying in the Faculty of Administration at the University of Ottawa. Laura is from Edmonton, Alberta.

Welcome to the Senate.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, we would like to proceed first with Item No. 1, that is third reading of Bill S-34, and then move on to Item No. 5, second reading of Bill S-40, before reverting to the orders of the day as proposed in the *Order Paper*.

[English]

### ROYAL ASSENT BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-34, respecting royal assent to bills passed by the Houses of Parliament.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, having more than a passing interest in this bill, I am naturally pleased that it has finally reached this stage. However, that being said, I am somewhat distressed that it has taken so long to reach the stage it is at today. As Senator Carstairs explained on Thursday, the idea started some 20 years ago and the implementation began through a bill over 10 years ago. I am distressed because it is as though through this bill we are making a substantial change in our proceedings when, in effect, it is nothing more than adding to a ceremony that will be unchanged. We are merely providing an alternative.

I am astounded by the number of witnesses and the number of colleagues who resisted so strenuously this very modest addition to an existing ceremony which, by itself, with all due respect to the constitutional obligation, is meaningless.

Royal Assent, in effect, although perhaps not in law, is meaningless. It is simply the recognition by the Crown, through a symbolic nodding in this chamber, that legislation passed democratically by both Houses can now become law and be proclaimed. What Governor General or representative will ever dare refuse a nod? If ever that happened, he or she would not last long in the position.



Here we were for over 10 years discussing not a change to the existing ceremony but a mild alternative to it. It has taken 12 years to get to where we now are through legislation. I am a little concerned about how this bill will be treated in the House of Commons when it gets there.

I am stating my mixed views on this bill because this does not augur well for substantial reform to Parliament. If we bog down on something so trivial — in fact, if not in law — as an addition to the existing Royal Assent ceremony, what will we do when it comes to Senate reform, greater participation by parliamentarians in the process of the purse, talking about limitations on terms of office and substantial issues such as bringing the members of the House of Commons closer to the activities of the House and closer to being active participants?

Over the last 20 to 25 years, the responsibilities of members of the House of Commons have been eroded, partly by their own doing, partly by their negligence and partly by their assent. It has reached the point that we now read practically every day that Parliament has become irrelevant. When the government imposes closure on a bill, the opposition quite rightly says that this power, which should be used only as an exception rather than a rule, is now an everyday occurrence. The opposition wonders about the point of being in Parliament if the executive can override the need for debate on such important matters as budget implementation bills and other important proposed legislation.

It is not only the opposition that is complaining about irrelevance. There is the same complaint on the government side, as there has been in other government caucuses. The only change is that the situation is getting continually worse. As much as we talk about Parliamentary reform, I am becoming afraid that if the way we have stalled this bill and its predecessors is an indication of the way Parliament sees its future, we will be stuck for far too long with the status quo and the word "irrelevancy" will be the word that will categorize future Parliaments.

On motion of Senator Joyal, for Senator Grafstein, debate adjourned.

•(1500)

## PAYMENT CLEARING AND SETTLEMENT ACT

### BILL TO AMEND—SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Furey, seconded by the Honourable Senator Fraser, for the second reading of Bill S-40, to amend the Payment Clearing and Settlement Act.

**Hon. W. David Angus:** Honourable senators, it is my pleasure today to enter into the second reading debate of Bill S-40. The bill is very technical by nature, and I understand it is non-controversial. I have been unable to identify any opposition whatsoever to the proposed legislation. On the contrary, I am

aware that it is important to both the integrity and efficiency of Canada's financial system and would be warmly welcomed by all relevant stakeholders.

The amendments in Bill S-40 are designed to provide clearing houses for Canadian securities and structured products, such as derivatives and options, with the legal protection they need in the event one of the trading parties becomes insolvent or bankrupt.

By definition, clearing houses must be able to clear transactions in a timely manner, but under existing law in Canada, they cannot clear transactions when either the buyer or the seller becomes insolvent. This is a problem that the deals in question would abort. Bill S-40 would obviate this problem.

Clearing houses require their members to post collateral and to "net" their payment and delivery obligations with the clearing house in question. Current Canadian bankruptcy and insolvency laws do not protect collateral on deposit with the clearing houses as is done with other contracts.

Honourable senators, I understand that this is of great concern to the four exchanges in Canada that trade in securities and structured products such as derivatives and options — the Toronto Stock Exchange, the Bourse de Montréal, the Canadian Venture Exchange in Calgary, and the Winnipeg Commodity Exchange, as well as the three clearing houses that clear those trades, namely, the Canadian Derivatives Clearing Corporation, the Canadian Depository for Securities and the WCE Clearing Corporation.

The amendments in Bill S-40 will expand the scope of Canada's Payment Clearing and Settlement Act by providing protection for the netting agreements for our securities and derivatives clearing houses. It will also provide protection for the collateral posted by the parties.

Strong and competitive Canadian financial markets are key to the overall growth and prosperity of our nation. The amendments in this bill will enhance our competitive position by enabling clearing houses to lower their costs in bringing our legislation into line with that of the U.S. and our other G7 trading partners. I am informed that currently some trades that could and should occur in Canada, particularly in derivatives, are being handled in the United States because of the risk issues on the Canadian exchanges and the lack of protection in our bankruptcy and insolvency legislation. In particular, the Bourse de Montréal, Canada's major derivatives exchange, is at a marked disadvantage compared to exchanges such as the Chicago Board of Exchange.

[Translation]

Honourable senators, the various Canadian laws that currently govern bankruptcy and insolvency, namely the Bankruptcy and Insolvency Act, the Companies' Creditors Arrangement Act and the winding-up and restructuring legislation, do not offer the same protection to Canadian clearing houses as do the laws of the other G-7 countries.

[ Senator Lynch-Staunton ]

The amendments to Bill S-40 will ensure that the Canadian market enjoys the same protection that is provided in the other G-7 countries.

In November 2001, the Bank for International Settlements and the International Organization of Securities Commissions made recommendations on security-clearing systems.

The amendments to Bill S-40 follow up on these recommendations.

[English]

Honourable senators, it therefore appears that the effect of Bill S-40 will be to allow our financial markets and institutions to grow their business in Canada and reclaim certain specialized financial business that has moved to foreign markets. It may also attract new investors from the United States and other foreign countries.

The globalization of financial markets in recent years has permitted investors to move their investments rapidly, in effect in the wink of an eye, away from riskier markets to others where the legislative framework is friendlier and less risky. As Senator Furey pointed out in his speech last week, the securities and derivatives industry is very significant for our Canadian economy. Should Canada fail to adapt its financial legislation to international norms, there is a clear danger that a significant number of Canadian businesses will move to foreign markets. Our highly skilled and specialized financial workforce should be encouraged to remain in Canada.

Honourable senators, Bill S-40 appears to deserve swift passage through the parliamentary process. I trust this will be verified by the honourable senators of the Standing Senate Committee on Banking, Trade and Commerce when they study the bill and hear government and industry witnesses next week.

However, honourable senators, I should like to add one further comment. Whilst, for the reasons I have mentioned, I support the amendments proposed in Bill S-40, there are a number of other significant measures that this government should be taking to assist capital markets in Canada to become more competitive and to curtail the worrisome brain drain of our well-educated, young financial experts to places like New York, London, Tokyo and elsewhere. For example, I believe the government needs to further reduce taxes on capital gains, continuing the encouraging start made just over a year ago. This government needs to do all it can to establish an environment whereby the Canadian financial industry can realize upon its true potential.

Honourable senators, the amendments in Bill S-40 are a positive step in the right direction.

**Hon. Nicholas W. Taylor:** Honourable senators, may I ask a question of Senator Angus?

**Senator Angus:** Yes.

**Senator Taylor:** Noting the honourable senator's familiarity with financial markets and the financial sector in general, I wonder if he could offer an opinion as to whether this bill moves

closer to that area that we all like to see, the area of better coordination of securities commissions amongst the provinces. As honourable senators know, there are 10 or 11 different securities commissions giving different messages to the investor. Will this bill help in that direction? Does that move us in the right direction, is it neutral, or does it move us backward?

**Senator Angus:** Honourable senators, I can see that the good Californian air has had a salutary effect on Honourable Senator Taylor's thinking processes.

Indeed, when I was being briefed the other day, trying to find out what this bill means, by the current President of the Bourse de Montréal, I asked that question. I asked whether this was not a provincial matter. I said that we are wrestling with this issue of uniformity amongst our securities regulators in Canada. He agreed. Of course, several years ago we had a restructuring of our capital exchanges in Canada. This was by agreement. This was through goodwill among different jurisdictions in the country, and it was more of a crossing over of constitutional barriers. Vancouver and Calgary became the CDNX type of exchange for small cap stocks, the Toronto Stock Exchange for bigger capital markets, and the Montreal exchange for derivative products and other structured instruments.

That came about through long and enlightened negotiations between the parties. As honourable senators know from my question earlier, I did read the weekend newspapers. I read that both B.C. and Quebec Securities Commission chiefs said no in response to a speech by Ms Szymiest three weeks ago, suggesting a national securities commission.

To return to the question of whether this bill is part of a movement toward harmonization, I would say it is, for the following reason. I understand that the parties directly affected — namely, exchanges such as the Bourse de Montréal — had to come forward as provincial bodies to bring this situation to the attention of Governor Dodge of the Bank of Canada and to the federal Minister of Finance, saying that although this matter is provincial, it is federal in terms of insolvency and bankruptcy where we need to amend a federal act. There was reasonable dialogue amongst reasonable individuals, and they have come to this regional piece of legislation. My answer is yes. I thank the honourable senator for asking the question.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

•(1510)

[Translation]

REFERRED TO COMMITTEE

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Banking, Trade and Commerce.



## CRIMINAL LAW AMENDMENT BILL, 2001

THIRD READING—MOTION IN AMENDMENT—  
DEBATE ADJOURNED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the third reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended;

And on the motion in amendment of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Moore, that the bill not now be read a third time, but that it be amended in clause 71, on page 37, by replacing line 28, with the following:

“writing to any member in good standing of the bar of a province, retired judge or any other individual who, in the opinion of the Minister, has similar background or experience the powers of the.”

**Hon. Pierre Claude Nolin:** Honourable senators, I thank Senator Cools, who authorized me to take her place today, because she had asked for debate to be adjourned in her name. In order to be sure that you can all usefully follow the debate raised by Senator Joyal, allow me to say that they concern an amendment to the Criminal Code provided for in Bill C-15A and more specifically the amendments having to do with the review process for applications for review made to the Minister of Justice concerning miscarriages of justice.

It is important to understand that since 1982, Canada has evolved within a constitutional democratic system. The advent and enshrinement of our Canadian Charter of Rights and Freedoms in the Constitution led to the evolution of our Parliament from the Parliamentary democratic system we had until 1982 to a constitutional democracy. I have no intention, on this, the 20th anniversary of our Charter, of re-opening the debate that took place at the time of its adoption. Our Charter of Rights and Freedoms contains the list of certain fundamental rights. The process that Senator Joyal is inviting us to take part in is one that respects these fundamental rights, in particular the right to freedom and security, which is protected under section 7 of the Charter.

Miscarriages of justice shake the confidence that is required of Canadians in the effectiveness and impartiality of our system of justice. All of our system's strength lies in this confidence in one of the pillars of our democratic society.

Last year, Chief Justice McLachlin, in a case that was no doubt dear to Senator Joyal, *The United States v. Burns and Rafay*, mentioned, and I quote:

The recent and continuing disclosures of wrongful convictions for murder in Canada, the United States and the United Kingdom provide tragic testimony to the fallibility

of the legal system, despite its elaborate safeguards for the protection of the innocent.

Bill C-15A calls on us to reform section 690 of the Criminal Code, as it is vague and imprecise. This section outlines the use of the power of mercy by the Minister of Justice, allowing the minister to maintain a decision to release a detainee for reasons which are consistent with the minister's decision and which need not be explained, since the power is absolute.

Many other jurisdictions have changed or regulated the exercise of this type of power, more specifically, the United Kingdom. Significant changes were made to the process to eliminate this power and entrust the assessment of applications and decisions to ensure that the detainees' rights are respected to an organization that is independent of the executive branch. These detainees will claim to have been judged unfairly.

The British process provides for an independent eleven-member commission, one third of whom must have practiced law for at least ten years. They are appointed by the head of state. Commissioners have powers of investigation similar to those conferred upon the Minister of Justice under our Bill C-15A. Theirs is the final decision to refer a request to an appeal court for review or non-review of a conviction, and not a minister of the Crown. This is an important point. It is important because, last October, the report of the Royal Commission of Inquiry into the conviction of Thomas Sophonow, written by former Supreme Court Justice Cory, recommended that the federal government look seriously into the creation of an independent commission like the one in the U.K. You can see, then, that this is not the only such instance in Canada, just the latest.

Some of the witnesses before the committee explained to us, with some bitterness, how the exercise of our legal system could, unfortunately, lead to such errors.

The former Minister of Justice made a choice, one that was confirmed by the new one. We invited the new Minister of Justice, and he provided us in writing with a response relating to maintaining the prerogative to which I have just referred. That choice extends as well to allowing full latitude to the Minister of Justice to define by regulation the mechanisms for the review process. While this is an improvement over the present process, I deem it insufficient and I will explain why. Still, it is a marked improvement over the present process.

It must be acknowledged that the process as proposed by the Minister of Justice borrows a number of its characteristics from the operation of the British commission, such as the application process, the definition of powers of investigation, the criteria guiding the minister's examination of the application, the regulations defining the application examination procedure. These are all to be found in the procedures for the British commission.

I am of the opinion that the process offered to us is neither independent nor impartial and is contrary to the fundamental rights recognized by the Charter of Rights and Freedoms, and more specifically its section 7.



• (1520)

The amendments proposed in Bill C-15A do not guarantee the independence and impartiality that must be found in the process to review cases of miscarriage of justice. These two elements, independence and impartiality, are there to ensure the respect of the principles of fundamental justice. Section 7 of our charter reads as follows:

Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof, except in accordance with the principles of fundamental justice.

There is no doubt that a person who is incarcerated and who claims to be wrongly incarcerated is included in or covered by the wording of section 7. The Federal Court ruled that the decision of the Minister of Justice under section 690 was of a quasi-judicial nature.

Indeed, in 1992, in the *Henry v. Canada* (1992) case, the Federal Court ruled that the decisions made by the Minister of Justice under section 690 are subject to judicial monitoring to ensure their compatibility with the Canadian Charter of Rights and Freedoms.

In 1996, in the *Thatcher v. Canada* (1996) case, the Federal Court wrote:

An unfavourable decision made by the minister when exercising his discretionary power under section 690 can result in the continuous and even permanent incarceration of a person who is found guilty. It is this violation of freedom that involves the rights of the claimant under section 7 of the charter and that requires the minister to act fairly in the exercise of his discretionary power.

I would like to stress the reference made by Federal Court Justice Rothstein, when he uses the word "permanent." For those who are not familiar with the parole process, a person who is incarcerated can only have access to the parole process if he admits that he is at fault. A person who is convinced of his innocence will never admit that he is at fault, because that fault does not exist. Some of you may remember Roméo Fillion, who was accused and found guilty of murder, here in Ottawa, more than 27 years ago. Recently, a little over a year ago, some evidence that was missing at the time suddenly surfaced and showed that Mr. Fillion was not in Ottawa when the crime was committed, but in Kingston, which is a two-hour drive from Ottawa. This evidence surfaced by chance. Mr. Fillion never admitted that he was at fault, and was therefore not eligible for parole. You see why the Federal Court used the term "permanent," which means possibly until the person dies. A person can be stuck in a Canadian prison because he is convinced of his innocence.

The Federal Court stated on two occasions that it is a quasi-judicial decision. The minister's decision is subject to the

review of the courts. The most recent one, *Thatcher v. Canada*, specifies that this review must be done in light of the rights of detainees as set out in section 7 of the Charter and requires that the minister act fairly in exercising his discretionary power. There is no question that section 7 varies based on the specific circumstances of each case. I mentioned the case of Mr. Fillion. I am sure that you are all aware of it. Senator Joyal listed several cases in his speech, each story as unbelievable as the next, but each story unfortunately has a common thread running through it whereby the detainees — to be politically correct — are not treated in the same way as the majority in the environment where these miscarriages of justice took place.

Thus, there is a requirement to respect the principles of independence and impartiality. I respectfully submit that Bill C-15A does not respect these requirements. Let us not forget that the Minister of Justice is also the Attorney General of Canada. In other words, when charges are laid, they are usually laid by the Attorneys General of the provinces — that is the reality of our federal system — on behalf of the Attorney General of Canada. The minister remains responsible for studying the requests for reviews of miscarriages of justice under the current system. According to Bill C-15A, the detainee, like Mr. Fillion, must appeal, and ask the Minister of Justice to review his file.

**The Hon. the Speaker pro tempore:** Honourable senators, Senator Nolin's time is up.

**Senator Nolin:** Honourable senators, I seek leave to continue for five minutes.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to grant Senator Nolin leave to continue?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I will certainly give the senator the time to finish his remarks.

**Hon. Senators:** Agreed.

**Senator Nolin:** Already, you can see glimmers of the absence of impartiality in this, or at least the public perception that the process does not enjoy the independence and impartiality to which the courts refer. I have a special problem with this. Senator Joyal has dealt with this in his motion in amendment regarding the power of delegation.

Under Bill C-15A, the minister now inherits an unqualified power of delegation, in that he is being given the powers of an investigator under the Inquiries Act. The minister may, but is not required to — that is another problem — turn around and decide to delegate an inquiry to another person, whose qualifications are not defined, hence Senator Joyal's amendment. This delegation is total. The minister may delegate this power without restriction. This appears to me to be contrary to the rules. I support Senator Joyal's amendment. I feel that, at the very least, we must ask for limits on the minister's delegation.

I read with interest the comments made by the honourable senators who questioned Senator Joyal. I have no problem broadening the definition proposed by Senator Joyal. It is important that the delegation Parliament is authorizing the Minister of Justice to make be limited, defined. The minister, who is given delegation under the act, must delegate further in a very specific way. Why?

René Dussault, at the time professor of law at Université Laval, said, in this regard:

...if the power delegated is not purely administrative in nature or ministerial, if it is more judicial or quasi-judicial, i.e. likely to be detrimental to the rights of the parties, or if it is of a discretionary nature which is clear evidence of the trust placed by the legislator in the ability and judgment of the agent, then the principle of *delegates no potest delegare* receives, in the absence of express provisions in the act a much more rigorous application.

At the very least, we must place limits on the delegation we are authorizing the Minister of Justice to make. It is for this reason that I support Senator Joyal's amendment.

• (1530)

The debate is not over. We will certainly hear other recommendations from commissioners who will say that the Canadian system is definitely not independent enough.

I would have liked to see the duration of these appointments specified. Are commissioners appointed for a sufficient period of time to give them a degree of independence from the person who appoints them? Will they have authority over the administrative unit within the Department of Justice? Will they have management authority, as the courts have over their officials?

The courts, when examining the independence of the bench, have sometimes raised the issue of the removability or irremovability of these commissioners or investigators, and their conditions of work.

But every time, the courts stated that Parliament had to provide a proper framework for judges' independence. If Parliament avoids doing so, it goes against these rulings and against the principles of the Charter of Rights and Freedoms, which requires our legal system to be free, impartial and independent, and it destroys the perception that the public must have of an impartial and independent justice system.

The former minister made a choice that was maintained by the new Minister of Justice. The government made its bed on a specific process. I hope that this is just the beginning of a desired and desirable reform of the process for the review of miscarriages of justice. Senator Joyal is asking us to amend a bill that begins this reform. His proposed amendment is necessary, and I urge honourable senators to support it.

[ Senator Nolin ]

[English]

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** On division.

Motion in amendment agreed to, on division.

**The Hon. the Speaker pro tempore:** We will now resume debate on the motion for the third reading of Bill C-15A as amended.

[Translation]

**Senator Nolin:** Honourable senators, I rise to speak today at a third reading stage of Bill C-15A, to amend the Criminal Code and to amend other Acts.

I would like to comment on the two amendments made to the bill, proposed by the Standing Committee on Legal and Constitutional Affairs, and agreed to at report stage.

I must begin by thanking the former Minister of Justice, the Honourable Anne McLellan, Honourable Senator Pearson, and the other members of the Legal and Constitutional Affairs Committee for having accepted the amendments I proposed to the new offence set out in Bill C-15A, which makes it a criminal offence to knowingly access child pornography.

These amendments will guarantee the constitutionality of this new offence, while bringing its application in line with the principles set out by the Supreme Court in *R vs. Sharpe*, 2001. I would remind honourable senators that the amendment as proposed by the committee calls for the application of two lines of defence as set out in subsections 6 and 7 of section 163.1 of the Criminal Code to this new offence.

That said, the purpose of my speech is to clarify the reasons for which I proposed an amendment concerning the protection of Internet providers, one which I would remind honourable senators was agreed to at the report stage.

Honourable senators, paragraph 1 of clause 5 of Bill C-15A brings up to date the provisions of the Criminal Code that relate to the distribution of child pornography in order to include those who use the Internet to commit this offence. The amendments proposed by the former Minister of Justice will ensure that in future anyone who transmits or makes available this type of material with a view to transmitting, making available, selling or exporting it, will be guilty of a criminal offence.

During consideration of the bill in committee, representatives of the Canadian Association of Internet Providers and of the Canadian Cable Television Association told us that Internet service providers could be found guilty of an offence for having unknowingly transmitted child pornography or making it available.



The current wording of this offence might have serious consequences on the activities of these businesses, as well as their reputation, because it contains no provision for criminal intent — *mens rea* — and thus leaves open the possibility that no recourse to this intention will be necessary for guilt to be established. The amendment agreed to is intended to eliminate this unclear point.

Since I proposed this amendment, three objections have been raised by some of our colleagues to contest its legitimacy and usefulness. I would like to take a moment to refute each of these arguments.

The first of these objections stipulates that the amendment is useless, since clause 5(1) is a *mens rea* offence. I am not in agreement, because a careful reading of the nebulous wording of this provision demonstrates beyond a shadow of a doubt that any offence proposed by the legislator is not one of transmitting child pornography for the purpose of transmitting it, but rather simply transmitting this type of material. If this interpretation is correct, it could have negative consequences on the presumption of innocence guaranteed to Internet service providers, a presumption that is entrenched in subsection 11(d) of the Canadian Charter of Rights and Freedoms. Here is why.

The lack of clarity in subsection 1 of clause 5 with regards to *mens rea* is exacerbated by the presence of the verb “transmettre” in French. The definition of the verb “transmettre,” according to the *Le Petit Robert* dictionary, could be translated as follows:

To pass along or hand on from one person to another words or a text. To move from one place to another.

In the case of an individual who is transmitting child pornography via the Internet, it might be easy to prove that an act prohibited by the Criminal Code was committed, the *actus reus*, and that it was accompanied by criminal intent, the *mens rea*. However, what of the Internet service provider?

If we take into consideration this definition of the verb “transmettre,” the latter could easily be found guilty of transmitting child pornography. In this type of case, the *actus reus* can be demonstrated with alarming ease. However, the existence of any criminal intent could be quite difficult to prove.

Just like phone, postal or courier services, businesses specializing in providing Internet telecommunications equipment are solely responsible for the equipment they provide, but not for how it is used by subscribers.

• (1540)

In this connection, the Supreme Court of Canada handed down a ruling in 1892 regarding the responsibility of a supplier of telephone services with respect to the content transmitted over its system. In *Electric Dispatch Company and Bell Telephone Company*, the court interpreted the notion of “transmission” as encompassing the person sending the message and the person receiving it, but not the intermediary providing the technical wherewithal for the communication.

Honourable senators, this reasoning can be applied to Internet service providers. They are merely intermediaries between two or more persons if all they do is provide the means for storing or transmitting digital data for a third party. In practice, such an undertaking does not possess the human and technical resources necessary to oversee the huge volume of information transmitted over its network or briefly stored in its servers.

In such a context, one cannot hold a provider responsible for transmitting child pornography unless it was aware of its existence or had criminal intent to allow such an action. The amendment I put forward is designed to correct this situation. It makes it possible to distinguish the container from the content. Even though the former Minister of Justice and Senator Pearson both stated very clearly that the provisions of clause 5 of Bill C-15A are not aimed at Internet service providers, my amendment further clarifies the legislator's intention by sending a clear message to the courts that the sender of this type of material is not the provider, but the user.

Honourable senators, I would draw to your attention the fact that at this time there are other federal statutes that contain provisions similar to those adopted at the report stage. I refer here to section 13 of the Canadian Human Rights Act and section 2.4 of the Copyright Act. Even if these legislative texts apply to a context that differs greatly from the criminal law context, let us not forget that, along with hundreds of thousands of Canadians, the courts are barely beginning to demystify the complexity of the Internet. For example, it would not occur to a judge to accuse a delivery service or telephone company in a trial of transmitting child pornography, yet in the case of the Internet that same judge could seriously question the fact that a company operating in this field unwittingly housed child pornography on its servers.

Why should Internet providers be deprived of the *mens rea*, which is required for offences requiring more traditional means of communication? In this context, I strongly believe that my amendment will clarify interpretation of clause 5(1) of Bill C-15A.

This brings me to some comments on the second objection, that a supplier can be exonerated of all criminal responsibility even if he knowingly harbours child pornography on his server or is directly involved in a network distributing this type of material. My response to this objection is merely that, should one or the other of these two situations occur, the company would no longer be acting as a mere intermediary in the transmission — as is stated in the amendment — so the protection it confers would not apply. I therefore maintain that the wording of the amendment is very clear on this.

Now, moving to the third and final objection: that the amendment will have negative effects on the criminal intent referred to in other infractions of the Criminal Code, I personally believe that this is a pointless argument, in that a number of other provisions in Canadian criminal law contain means of defence similar to those given in the introduction to my speech, which stipulate *mens rea* is required in order to avoid innocent people being unjustly found guilty.



Honourable senators, for all these reasons, the amendment will protect suppliers of Internet services and promote the principle of the presumption of innocence without, however, compromising the implementation of the provisions designed to curb the distribution of child pornography over the Internet.

The committee gave very serious consideration to the other provisions of Bill C-15A. Among other things, these provisions increase the maximum penalty for criminal harassment, something Senator Oliver suggested during a previous Parliament. So, the bill increases this penalty. In my opinion, it is not so much the length of the penalty, but the wording of the offence that poses a problem. We will certainly have to re-examine that wording.

Bill C-15 proposed a series of amendments to the criminal procedure, particularly as regards preliminary investigations. In committee, we discussed the pros and the cons of these amendments and we came to the conclusion that this is an acceptable change and that we should follow in the footsteps of other jurisdictions regarding this important procedure in our criminal law system, namely the preliminary investigation.

Honourable senators, Bill C-15A is a valid measure. It is the result of the splitting of two major components in the original Bill C-15, which was introduced in the other place during the current session of this Parliament. We are discussing fundamental issues regarding respect of the rights of detainees.

Earlier, I referred to the amendments on the process for reviewing miscarriages of justice under section 690 and the following sections of the Criminal Code. Reference was also made to new offences involving child pornography. Today, amendments to the criminal procedure have been mentioned almost only in passing. Yet, the witnesses who appeared before our committee abundantly questioned the appropriateness of these amendments to the criminal investigation procedure.

The Senate and Parliament inherited Bill C-15A and Bill C-15B. The latter will soon be before us. We will then be in a position to understand why the government, in its great wisdom, decided to split Bill C-15 into two important parts.

Honourable senators, I recommend that this bill, as amended, be passed.

On motion of Senator Stratton, for Senator Beaudoin, debate adjourned.

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, Senators Beaudoin and Gauthier, who were to speak to Bills C-30 and C-27 respectively, are now sitting in the Joint Committee on Official Languages. A message in this regard has been sent to them.

The reason I am taking the time to explain this situation to honourable senators and to all those listening is so that people will understand that there are complications and that we must govern ourselves accordingly in order to move forward the

business of the Chamber while also allowing senators to accomplish their work in committees.

The work done by committees is recognized by all members of the public and by all honourable senators present today.

•(1550)

Normally, committees do not sit at the same time as the Senate, but joint committees, which are made up of senators as well as members of the other Chamber, are exempt from this requirement.

I hope, Madam Speaker, before you call me to order, that this message was sent to Senator Gauthier. I am told that this was done by our very honourable whip and that Senator Gauthier is now heading for the Chamber to speak to Bill C-27.

I know that all honourable senators here are waiting impatiently for Senator Gauthier to open the debate on this bill which deals with the long-term management of nuclear fuel waste. Naturally, once Senator Gauthier has opened debate at second reading, opposition and other senators will be able to speak.

## NUCLEAR FUEL WASTE BILL

### SECOND READING—DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier** moved the second reading of Bill C-27, respecting the long-term management of nuclear fuel waste.

He said: Honourable senators, it brings me great pleasure to introduce Bill C-27 at second reading today, a bill that is timely and that is considered very important for all Canadians, because it has to do with the long-term management of nuclear fuel waste.

Canada is fortunate to be able to rely on a broad range of energy sources. One of these is nuclear energy, which has allowed Canadians, and particularly the residents of Ontario, to produce clean and reliable electricity since the 1970s.

Regardless of the role that nuclear energy will play in the coming years, this source of energy clearly has its advantages but it also produces waste that we have the responsibility to manage properly.

Waste is currently stored safely on site at reactors, until a long-term management strategy is implemented. Bill C-27 establishes this strategy; it is the result of 25 years of research, environmental assessments and broad consultations among various stakeholders, including waste owners, the provinces in particular, the general public and aboriginal groups.

[English]

Honourable senators, how has the public reacted to Bill C-27? This new piece of legislation builds on the 1998 Government of Canada response to the Nuclear Fuel Waste and Disposal Environmental Assessment Panel. The chairman of that committee was Mr. Blair Seaborn.

The Seaborn panel carried out a decade-long public review of nuclear fuel waste disposal, including Canada-wide public consultations. Its recommendations were largely adopted by the government. Subsequently, there has been general support for new legislation but concerns were raised in the other place on a few aspects of this bill.

Principally, the government could not adopt the Seaborn recommendation to create a Crown corporation for carrying out the long-term management of waste. Indeed, the single most frequently raised concern was that the Waste Management Organization, or WMO, to be created by waste owners, is not entirely independent from the nuclear industry.

A basic principle of the bill is that the waste owners are primarily responsible for carrying out and financing waste management activities under federal oversight. The government's role is clearly one of general oversight, of control over the business affairs of the industry. This approach provides for an effective way forward and allows for a clear separation between those who carry out operations and those who regulate them, thereby increasing efficiencies and avoiding conflicts of interest.

More and more, Canadians want to participate directly in the important decisions affecting their lives and those of their children. Key among the requirements of the bill are those ensuring the effective participation of the public in decision-making processes. The reasons for the requirements are to ensure transparency in planning for and implementation of long-term waste management activities. Further, they are to allow for easy and prompt access to information and effective public consultations.

[Translation]

Honourable senators, one may well ask: how did the companies and provinces affected by this measure react to Bill C-27?

The owners of the waste are glad of the regulatory certainty provided by Bill C-27, as it clearly sets out the framework within which they must fulfil their obligations without imposition of an undue financial burden. Small businesses indicated that the management body ought to be in a position to provide them with services at a reasonable price.

Throughout the drafting process of the bill, the government consulted the provinces affected, that is Ontario, Quebec and New Brunswick. Many meetings were held and almost all their concerns were dealt with. It took as conciliatory an approach as possible, without compromising the objectives of the policy as far as federal monitoring is concerned.

The provinces acknowledge federal jurisdiction over this, and all subscribe to the principles that underlie Bill C-27.

The standing committee of the other place addressed the matter of the efficacy of the organizational frameworks and the

transparency of the process. It adopted four motions, one aimed at including aboriginal traditional knowledge to the expertise of the board.

Honourable senators, one more question: What will happen when Bill C-27 comes into effect, if Parliament agrees to enact it?

• (1600)

The major owners of waste, again the provinces to the tune of 98 per cent or 99 per cent, would kick off the trust fund, while the waste management organization would begin preparing its study. Its report would be submitted within three years after the bill is passed. The study would include a comparison of the risks and benefits of each option. The waste management organization would examine those options explicitly outlined in Bill C-27, but would not be limited to those options and could propose others.

A number of stakeholders doubted whether three years would be enough time for the waste management organization to carry out its study. In light of research that has already been done in Canada and elsewhere, and considering that the Seaborn panel had recommended a two-year period and that public utilities have already undertaken work to that end, a three-year period seems to me to be adequate.

• (1600)

[English]

Honourable senators, let me conclude my remarks on Bill C-27. This new piece of legislation will allow the government to move effectively towards the implementation of a solution for the long-term management of nuclear fuel waste.

Some stakeholders have asked: Why move now, what is the hurry? The waste is already stored safely. First, existing storage facilities may be, as some of the experts say, safe, but they are not designed for a permanent solution. Second, there is international consensus that technology already exists to manage nuclear fuel waste properly over the long-term. Third, the nuclear industry is ready to meet all of its long-term waste management responsibilities, including funding and corresponding activities, thereby increasing confidence that taxpayers will not shoulder these responsibilities. Fourth, local communities near existing reactor sites want to know what will be the fate of the nuclear fuel waste currently located within their boundaries.

Considering the long lead time before a solution can be implemented, and there are no longer any good excuses for further delay, embarking now on a legislative process is the only responsible route for pursuing a thoughtful course of action. This legislation, which is the culmination of many years of work, was not established in a contextual vacuum. Policy developments were guided by extensive consultations with all stakeholders, experience already gained in our countries, modern regulatory practices, social justice concepts, and, of course, by the invaluable work of the Seaborn panel.



[Translation]

The challenge for the government was to develop a policy that would be fair to stakeholders and that would effectively reconcile all the elements, in the public interest. I firmly believe that we can say mission accomplished with Bill C-27. With a sound administrative framework, Canada will be in a position to implement a long-term nuclear waste management strategy, which has been technologically impeccable to this day, but which also fully integrates the social and ethical values of Canadians.

You may wonder what Senator Gauthier is doing in the nuclear area? I will surprise you. I have some knowledge of this area. In the past, I visited nuclear facilities in Argentina, when we sold them a CANDU reactor. I travelled there with Mr. Seaborn, who conducted this 10-year study. He is a competent man who wrote a report that deserves to be read. In this House, we have the honour and privilege of having one of the participants in that public consultation, Senator Lois Wilson, who is one of those who signed this report entitled:

[English]

A Nuclear Waste Management and Disposal Concept, I think this is worth our time and our efforts.

On motion of Senator Keon, debate adjourned.

[Translation]

## COURTS ADMINISTRATION SERVICE BILL

### SECOND READING

Leave having been given to revert to Item No. 4 on the Orders of the Day:

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Pearson, for the second reading of Bill C-30, An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

**Hon. Gérald-A. Beaudoin:** Honourable senators, Bill C-30, the Courts Administration Service Act, has three main goals: to establish a single administrative structure for the Federal Court, the Court Martial Appeal Court and the Tax Court; to split of the Federal Court of Canada into two divisions: the Federal Court of Appeal and the Federal Court; and to change the status of the Tax Court of Canada to that of a superior court.

This is a technical bill which also amends 44 other federal statutes with the purpose of changing their wording to reflect changes brought about by the new legal structure resulting from Bill C-30.

[ Senator Gauthier ]

The Federal Court was known until 1970 as the Court of Exchequer. Created in 1875 by the federal Parliament, the Court of Exchequer was not completely separate from the Supreme Court until 1887. In 1970, the Court of Exchequer became known as the Federal Court of Canada.

The Federal Court is a specialized court. Its jurisdiction extends *inter alia* to cases or claims made by, or against, His Majesty the Queen in Right of Canada, to cases of expropriation for federal purposes, et cetera. In certain cases, it has jurisdiction concurrent with certain provincial courts.

This court has jurisdiction in other areas where the Parliament of Canada has exclusive jurisdiction, such as copyright, patent, trademarks and industrial design.

Its jurisdiction extends to all of Canada. Although its headquarters is located in Ottawa, it is an itinerant court; the judges travel to all regions of Canada to hear cases. Finally, let us remember that this court also sits as an admiralty court.

As Senator Bryden said last Thursday, Bill C-30 does not affect the principle of judicial independence. On the contrary, the bill reinforces it.

•(1610)

To a certain extent, judicial independence in Canada is ensured by the provisions of constitutional statutes. It is also ensured by the constitutional conventions and a long tradition, by the decisions of the Supreme Court of Canada, by documents which form part of our constitutional law through the preamble to the Constitution Act, 1867, such as the Act of Settlement of 1701. The Canadian Charter of Rights and Freedoms contains certain principles which help to guarantee the independence of the courts.

Section 99 of the Constitution Act, 1867, enshrines the independence of the judges of the superior courts. This section is fundamental in law. Superior court judges shall hold office during good behaviour, but may be relieved of their office on serious grounds by the Governor General on address of the two federal Chambers.

Since the Act of Settlement of 1701, address of both Chambers has been required to remove judges of the highest courts in England. If the supremacy of Parliament is established by the British Revolution of 1688 and the Bill of Rights of 1689, it is the Act of Settlement which enshrines the independence of judges.

As Lord Denning pointed out in 1951, the judicial branch in England has been separated from the other two for at least 250 years, and this ensures the application of the rule of law.

Superior court justices retire when they reach the age of 75. Since 1982, paragraph 11(d) of the Canadian Charter of Rights and Freedoms must be added to section 99. However, this paragraph has a limited scope in that it only applies to criminal matters.



Since the Supreme Court did not exist in 1867, the independence of that court is protected by an ordinary act, while that of superior court justices is expressly enshrined in the written Constitution, even though in the *Addy* case, the Trial Division of the Federal Court concluded that Supreme Court and Federal Court justices are superior court justices within the meaning of section 99(2) of the Constitution Act, 1867.

It is in the *Valente* case that the criteria determining the scope of judicial independence were first established. Judicial independence is characterized by: first, security of tenure; second, financial security; and third, complete independence of administration of matters relating to the judicial function (institutional independence). These criteria are appreciated from the point of view of the "reasonable person." It is the third element that is of particular interest to us in relation to Bill C-30.

In *Tobias*, 1997, the Supreme Court addressed the individual aspect of institutional independence, stating:

The essence of judicial independence is freedom from outside interference.

I would remind you, honourable senators, that respect of this principle is based on one objective criterion, the reasonable and informed observer.

In creating a Courts Administration Service, Bill C-30 enhances judiciary independence, by clearly confirming the role of chief justices and justices in the administration of these courts.

I would also point out that there is a legislative protection as far as the representation of Quebec is concerned. Four of the judges of the Federal Court of Appeal and six of the judges of the Federal Court must be persons who have been judges of the Court of Appeal or the Superior Court of the Province of Quebec, or members of the bar of that province. As for the Tax Court of Canada, the Chief Judge or the Associate Chief Judge must come from Quebec.

Honourable senators, Bill C-30 puts in place a courts administration service under the supervision of a chief administrator, appointed by the Governor in Council after consultation with the chief justices for a renewable five year term.

Senator Bryden has explained the scope of this bill very well. It is not controversial. I am therefore in favour of Bill C-30.

[English]

**The Hon. the Speaker pro tempore:** It was moved by the Honourable Senator Bryden, seconded by the honourable Senator Pearson, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Bryden, bill referred to the Standing Senate Committee on Legal and Constitutional Affairs.

## ENDING CYCLE OF VIOLENCE IN MIDDLE EAST

### INQUIRY

On the Order:

Resuming debate on the inquiry of the Honourable Senator De Bané, P.C., calling the attention of the Senate to his recommendation for ending the atrocious cycle of violence raging now in the Middle East.—(Honourable Senator Taylor).

**Hon. Nicholas W. Taylor:** Honourable senators, I rise to say a few words on the situation in Middle East, although I will not be as eloquent as Honourable Senator Prud'homme. The conflict between the Palestinians and the Israelis is in the news every night. Although I do not have a solution to the problem, I do have some experience in the area, and I should like to share my thoughts with members of this house.

• (1620)

This problem reminds me of Winston Churchill's words when speaking on Russia during the Cold War. He said, "It is a riddle wrapped in a mystery inside an enigma." That comment would apply to the problem that we have now in the West Bank.

My experience comes from both business and parliament. In my business experience, I worked in the Middle East for 20 years between 1965 and 1985. I had offices in Cairo, Tel Aviv and Tehran. Most of my work was in Cairo and Tel Aviv. We had to take a plane from Cairo to Rome then fly to Tel Aviv because Egypt and Israel had severed diplomatic relations. After the Egyptians made a few moves, they decided to resume direct communications. Living in that part of the world was one of the more interesting experiences of my life. Once again there were flights between Cairo and Tel Aviv. At the airport in Cairo planes operated by American Airlines, Transworld, Scandinavian Airlines and others were painted in pretty colours, but the plane scheduled to fly between Cairo and Tel Aviv was painted in a drab colour and had no markings of any sort. They did not want the flight from Cairo to Tel Aviv to attract attention. Yet, it was the only plane that had no markings.

Be that as it may, I found working with the Semitic people, both those of the Jewish faith and those of the Moslem faith, to be most interesting. They are very warm and friendly people.

One has to understand the history of the area. The area is smaller than the area between here and Montreal. In that small area are people of the Jewish religion, the Moslem religion, Christians and even people of the Baha'i religion. The man who started the Baha'i religion is buried just outside of Haifa. Perhaps the desert landscape leaves time for people to contemplate religion. Buddhists and a few others are, somehow, missing from the list. However, those religions I mentioned influence the basic thought processes of most of the Western world. I am referring to the Judaic Christian heritage cross-pollinated with a certain amount of Moslem.

In addition to that experience of 20 years of travelling in that part of the world, I was hired by the Israeli government to help them to get around the embargo. I negotiated a deal with Mexico at the time.

Since I became a senator, although I still have some business in the Middle East, very little compared to what it was in the past, I have been involved in the Interparliamentary Union. Two years ago I was asked to be the Canadian representative at the meeting of that body in Jordan. Canada was represented with another six countries, which included Iran, Israel and Iraq. Being Canadian, I ended up as chairman of the committee on the Palestinian refugee problem. I have worked in the Interparliamentary Union on that issue for the last few years.

Just last September, I again attended a meeting of the Interparliamentary Union, this time in Burkina Faso. September 11 was the third day of our committee meeting. That, of course, put an end to the meeting. The Israeli contingent was withdrawn by their government, and Iranians withdrew too because there was quite a concern as to what this bombing might mean.

Honourable senators, I say all that as a background. Perhaps, as is true in many instances: The more you associate with a problem, the less you know. Certainly, I do not know the whole answer to the problem, but I do think that there are some areas that people should note and consider.

Terrorism is not unique to that part of the world. Whether it is in Egypt, Iran or Turkey, terrorism is quite often practised by those out of power with very little sense of being able to get out of their situation in any shape or form. In fact, the Jewish state was largely created due to terrorism.

I had one friend who was killed. He was in the British army in 1948. A parcel bomb was sent to his house from the underground Jewish movement. At that time they were trying to get the British to let go of the controls so that they could establish a country. Another man with whom I was acquainted had his hand blown off with a letter bomb.

It is not unusual that terrorism is used for a political end, but it is certainly not acceptable. It is wrong, but it is a way to an end.

Honourable senators, there are a number of issues that you must address when looking at the Palestinian problem. First, vengeance must be thrown out. The idea of getting even because something was done to you 2,000 or 500 years ago must be thrown out. Perhaps we are the last people who should be lecturing anybody on that. Although we reject the concept of vengeance, we do use apologies. There is always someone introducing a bill in either this house or the other place saying that we have to apologize for something done in the past. Apology is just a modern, fancy way of rehashing the past. I have always been very much against it in Canada because I have always felt that one of the unspoken rules of Canadian citizenship is that you leave your battles behind when you

immigrate to this country and you should not legislate to encourage people to apologize. You must forget about the past and decide how you will behave in the future. What is the future?

From my experience with the interparliamentary union, once as chair and once as vice-chair of the committee on the Palestinian liberation problem, I know that some problems will always come through, although Iranians and Israelis were sitting at the same table.

I do not want to insult your intelligence, honourable senators, but perhaps we should clear up a few definitions. A Jewish person could be an Arab, although there are few, or he could be an agnostic. Although they talk about being the only democracy in the Middle East, some people might question that because it is hard to get the concurrence of the rabbinical council to become a citizen if you are not of the Jewish faith. That is one of the few democracies where definition of faith dictates whether you are allowed to have citizenship, but it does happen.

An Arab and a Moslem are two different things. Iranians are not Arabs. They are quite insulted if you try to tell them that they are. There is an Arab-Moslem problem. We recognize that we are talking about same-race people, Semitic. Even the languages are similar. The two different religions may be farther apart than the Northern Irish and southern Irish who have been practising terrorism on each other for some years. Nevertheless, we understand the difference.

Honourable senators, there are a few basic points you must recognize. One is that it must be recognized that Israel has the right to stay there and to be a country. Another point is that the recent move towards peace by Saudi Arabia is a step in the right direction. Egypt and Jordan have recognized Israel. It would help if we could get the other countries around the area to accept that Israel has a right to be there and have no thought of pushing them out.

Israel also has a right to protection. The "green line" runs down the middle of Israel. Israel is only maybe, at the most, 100 miles wide, and quite often 65 miles wide. You can understand why the Israelis would not want an independent Palestinian state with its own army overlooking Tel Aviv. If you ever get a chance to visit the old country, you will see how closely the two settlements are interwoven.

•(1630)

The second thing that must be considered is a free and independent Palestinian state, but one that is not so independent that it can have its own army. It must be independent enough that it can have its own police force. As well, there must be a sovereignty component — my francophone friends would understand — within that set-up. At the rate that immigration is occurring and given the native birth rate, the Israelis recognize that they will soon be outnumbered in the area. They have pretty well plucked the world dry of people of Jewish faith who want to come back and settle there. There are some, but there are not enough to hold the same percentage that they enjoy today.



The thinking people over there have a concept of an independent Israel. The Israelis themselves have extremists within their own ranks. As a matter of fact, most Israelis come from North America and move out to the settlements of the West Bank. They are as dedicated to driving the Arabs out of the West Bank as many Arab extremists are dedicated to driving the Jews into the ocean.

As an aside, I think that the Israelis have a problem. A lot of people in this country say that we should have a right to proportional representation. For the 100-member Jewish Knesset, "proportional representation" would mean that a person would only need about 1 per cent of the population to vote for them. Consequently, you can have an extremist sitting in your legislative chamber, much more than you do here. That is hard for us to understand. In Canada, a real nut case has a hard time becoming elected. In Israel, however, it is not an uncommon occurrence. By that, I mean there may be 5 or 10 of them sitting in their chamber, which is enough to have influence in a tight house and it leads to certain problems.

Honourable senators must recognize that the Jews have a right to be there. Furthermore, we cannot solve their problems. I do not know of any solution, even close to one. I think a partial solution is in place already with the Golan Heights being patrolled by both Canadian and United Nations troops and by Syria on the other side. I do not think anyone in his right mind wants to put Syria back into the Golan Heights. If you have ever been to the Golan Heights, it is like having someone on the top of the Peace Tower constantly surveying the street across the road. It would be enough to give you the heebie-jeebies, even if they were friends sitting up there overlooking the area. There is no doubt that the Golan Heights must stay. That problem is solved now with the UN intervention, perhaps in perpetuity. Who knows? Perhaps the Syrians will come around, but they do not have to guarantee Israeli integrity, as long as most of the other countries do.

We must recognize the Palestinian state, allowing them to arm as far as the police are concerned. There is also the issue of the withdrawal from the settlements. You may not be able to withdraw from all the settlements, but you should be able to do some sort of land swap with the PLO.

**The Hon. the Speaker *pro tempore*:** Honourable Senator Taylor, I am sorry to interrupt, but your allocated time has expired.

**Senator Taylor:** May I have leave for five or three minutes more?

**Hon. Terry Stratton:** Try for two!

**The Hon. the Speaker *pro tempore*:** Is leave granted for three more minutes?

**Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** Please proceed.

**Senator Taylor:** In committee, I found that the idea of Jerusalem being the capital for the Palestinians not that unusual. Throughout the centuries, different Christian groups would occupy Palestine at different times, and the Jews and the Arabs had little to say about it after the Crusades. They would argue about splitting Jerusalem. The Orthodox, Catholic and, later, Protestant religions all wanted to call Jerusalem home for their religion. It is not unusual that the Palestinians would want to call it their capital. There are areas in the world and precedents in the past where a city has been the capital of more than one nation or group. Many of the new settlements that have come into the West Bank have been placed there in an effort to surround East Jerusalem, which is where most of the Palestinians live. That is a problem. However, giving them more land and leaving a few of the settlements there while withdrawing from some of the other settlements could be an acceptable compromise. We must look at that.

The last area of concern is compensation. The Israelis have not made any attempt to compensate the Arabs who have been moved out of their area. This is where Canadians and the UN can do something instead of just moving our lips and saying, "We wish we could. It would be nice not to have fighting." Perhaps we could put up a lot of the funds not only to compensate the Palestinians but also to aid them to rebuild their country, either with roads or with hospitals and schools, bit by bit. That aid would be tied to them keeping the peace. That is to say, the Western world would continue to spend money to build up the West Bank as long as the Palestinians did not try to start terrorism or try to do something on the other side. Likewise, we would be asking the Israelis to keep their tanks at home. With the decent police force that the Palestinians would have, they could arrest anyone who was breaking the law by crossing the fence and going over into the Israeli area.

Honourable senators, this conflict will not stop overnight. There is nothing to be gained. One cannot stop terrorism. Terrorism ruins Israel's tourism industry and people's sense of peace. At the same time, the PLO is not advancing educationally and is not building a society of their own. There is no future in terrorism.

I will have to drop my last idea, namely, that of an apology. I do not think it works.

**The Hon. the Speaker *pro tempore*:** If no other honourable senator wishes to speak, this inquiry is considered debated.

● (1640)

## REDISTRIBUTION OF SEATS IN HOUSE OF COMMONS

INFLUENCE OF 2001 CENSUS—INQUIRY—DEBATE ADJOURNED

**Hon. Lowell Murray** rose pursuant to notice of March 7, 2002:

That he will call the attention of the Senate to certain issues related to the redistribution of seats in the House of Commons subsequent to the decennial census of the year 2001.



He said: Honourable senators, today begins the process of redistributing seats in the House of Commons based on the decennial census of the year 2001. The operative statute is the Electoral Boundaries Readjustment Act. Today, the Chief Statistician of Canada presents the census return for the year 2001 to the Chief Electoral Officer. Tomorrow, the Chief Electoral Officer will apply the representation formula; determine the number of seats in the House of Commons per province; establish the quotient per seat for each province, which is done by dividing the number of seats assigned to that province into the population of the province; and publish this in the *Canada Gazette*.

I am happy to see the rapt attention of two of the most experienced electoral campaigners in this place — our colleagues Senator Moore from Nova Scotia and Senator Fitzpatrick from British Columbia, who, I am sure, have come into the chamber only to hear what I might have to say on this vital subject. I recognize, of course, quite a number of others, including Senator Bryden of New Brunswick, with whom I have debated on this general subject in the past.

The redistribution commissions in each province are to be appointed by law within 60 days. However, I am informed, and perhaps my friends from Nova Scotia and British Columbia can confirm this, that the members of these commissions have already been recruited. Their names are to be announced today or tomorrow and, in fact, only an Order in Council is required to make it official. As we know, that should take no more than one or two days.

There is a document that honourable senators, I believe, received some time ago called "Federal Representation 2004" that has a calendar of events with the dates by which the various steps are supposed to be achieved. I will telescope that considerably by telling honourable senators that the commissions have one year from this month to prepare their proposals, hold public hearings on those proposals and complete their reports. At that stage, the involvement of our friends in the other place begins.

The Speaker of the House of Commons will receive the reports through the Chief Electoral Officer; the Commons will strike a committee of its members to consider them; MPs will file their objections; and the objections will be reported, through the Chief Electoral Officer, to each of the provincial commissions. Thirty days later, the final maps are to be proclaimed. That would take us, supposedly, to the end of June 2003. Then one full year intervenes. The bottom line in this calendar of events is that any election called after June 2004 will be on the new boundaries.

Honourable senators, needless to say, the calendar of events can be upset. The act provides for the possibility of extensions of time at several steps in the process. First, any provincial commission can ask for up to six months of additional time to complete its work, although none has asked for such an extension in the past.

Second, and this will, as they say, "bear watching," the House of Commons process may be extended by request of the committee for up to 30 days.

I should note at this point, however, that it is also possible to save time in the process. In this respect, I would say that we are off to quite a good start. The government and the Chief Electoral Officer, to their credit, are ready now, as I suggested, to appoint the commissions, a process for which a period of 60 days is actually provided.

A more serious threat to the process occurs when, inevitably, pressure arises from caucus in the other place, especially the government caucus, to find a way to postpone the redrawing of the boundaries. We all know that MPs of all parties take a very proprietary attitude to "their" constituencies. Generally, MPs do not like the disruption that occurs when they lose and/or gain one or more blocks of constituents from a neighbouring riding. Of course, it has happened that whole ridings have been wiped out in a redistribution. Famously, in British Columbia, a redistribution back in the 1970s or 1980s wiped out the constituency of MP Ian Waddell, a member of the NDP. He took his case to court — at least to the British Columbia Court of Appeal — on a question of principle, of course.

It was pressure from Liberal backbenchers after the 1991 census that led to the introduction of Bill C-18 and its passage through the House of Commons in the spring of 1994. This bill would have wiped out the whole process after preliminary maps had been published by the commissions. The bill did not pass the Senate.

The commissions went ahead, held public hearings and produced considerably revised maps for consideration by the House of Commons. At that point, 90 days from the time that the whole process would have been completed, the government introduced Bill C-69, which would have scrapped the process on the pretence of making changes in the election law. The process would have had to start all over again. Bill C-69 did not pass the Senate.

Honourable senators, we must be on the alert to delays that would cause this timetable to be overtaken by events and that would have the effect of fighting the next election, let us say in 2004, essentially on the boundaries established as a result of the 1991 census.

The best guess is that obviously there will be additional seats in the House of Commons as a result of the 2001 census. I do not believe that there will be as many additional seats as we had expected — that is to say, 10 or 11 additional seats — because the population increase, which was announced today by Statistics Canada, does not appear to have been as great as had been expected just a few years ago. However, we will know tomorrow when the Chief Electoral Officer files his representation formula in the *Canada Gazette*. Again, the winners will be Ontario, British Columbia and Alberta. There will be no losers, and I will come to that in a minute or two.

● (1650)

If the redistribution process is not completed on schedule, British Columbia, Alberta and Ontario will be deprived of the additional representation to which they are entitled and, after an election, we will have a Parliament sitting probably until the year 2008, the composition of which will be based on a census conducted 17 years in the past. This is something we do not want to permit, if we can prevent it.

I will flag two issues for honourable senators before I sit down. I have spoken of the first issue before. The law permits the provincial commissions, in drawing boundaries, to allow, in any given riding, a 25 per cent variance from the provincial quotient, and even this variance can be exceeded in exceptional circumstances. I acknowledge immediately that the 25 per cent variance has been upheld, albeit in a provincial case, by the Supreme Court of Canada. I still say that it is too high and ought to be brought down to at least 15 per cent, as suggested by the Lortie Commission in 1991.

When a provincial commission starts out by allowing a variance at or near the 20 or 25 per cent level, that situation is aggravated over a period of five or 10 years because of population changes. Obviously, we cannot change this by law to take effect during the current process. However, I would urge the provincial commissions in seven provinces to look carefully at what the commissions did last time in Manitoba, Saskatchewan and Alberta. In those provinces, they drew the boundaries very tightly and very close, in the case of each riding, to the provincial quotient. It can be done. I looked at the historical experience in some of those provinces, notably Manitoba, where past commissions started out with quite a wide variance.

In the redistribution based on the 1991 census, I found that Manitoba, Saskatchewan and Alberta drew their boundaries very tightly and very close to the provincial quotient; whereas, to various degrees, British Columbia, Newfoundland, Quebec and Ontario indulged the variants quite widely.

This, of course, disadvantages voters in urban and faster growing areas. If, for example, they had been governed by a 15 per cent variance last time, I think the overall result would have been more respectful of the principle of relative equality of voting power. I said, "relative equality of voting power," because we all know that we have never had pure "rep by pop" in this country. As various learned justices of the courts have pointed

out, we have recognized various historical, social and cultural factors in drawing the boundaries.

In 1867, the so-called "Senate floor" was established, by virtue of which no province can have fewer members in the House of Commons than it has members in this chamber. That Senate floor now protects two provinces — Prince Edward Island and New Brunswick — which have higher representation than they would otherwise have in the House of Commons.

A new wrinkle was added by our friends in the other place in 1985 when they added the provision to the law that no province could end up, as a result of that redistribution, with fewer seats than it had after the redistribution of the 1970s. In other words, all provinces were effectively grandfathered at the level of representation they enjoyed in 1985.

I cite as my authority for that Professor John Courtney of the University of Saskatchewan who has written an excellent book on the subject, entitled *Commissioned Ridings*, published by McGill-Queen's, which came out last year.

As a result of this grandfathering wrinkle, together with the Senate floor, seven provinces have a total of 20 seats more than they would otherwise be entitled to have. If there are questions about that, I could find the provinces and the extent to which they are overrepresented.

This, too, needs to be changed. The Lortie Commission suggested that we do away with that provision and that we ease the pain somewhat by providing that, in subsequent redistributions, no province could lose more than one seat with every decennial census. That might be one way of approaching the problem. Leaving it as it is will exacerbate this inequality of representation as among the provinces.

As of now, in only three provinces is the representation based on population, those being British Columbia, Alberta and Ontario. The others are all protected in various ways, either by the Senate floor or the 1985 grandfather clause.

I just wanted to flag those issues, honourable senators, as they begin this important process of redistributing seats in the other place.

On motion of Senator Stratton, debate adjourned.

The Senate adjourned until, March 13, 2001 at 1:30 p.m.



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CANADA

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(HANSARD)

Wednesday, March 13, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER





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## THE SENATE

Wednesday, March 13, 2002

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### THE RIGHT HONOURABLE HERBERT ESER GRAY, P.C.

##### TRIBUTE

**Hon. B. Alasdair Graham:** Honourable senators, all of us have probably, at one time or another, run across examples of famous people who have turned negatives into positives through their self-discipline and personal determination, through their undying perseverance and just plain courage; of famous people who have turned negatives into positives through belief, fortitude and determination. As I reflect upon the remarkable career of the Right Honourable Herb Gray, these are some of the phrases that come to mind: Never say never; the master of the political moment; and, always the noble gentleman with the backbone of steel. Herb Gray is a man who, in the middle of difficult treatments for cancer, gave press releases, never stopped working, came to cabinet meetings, was regularly scrummed, and gave hope and encouragement to everyone around him.

Honourable senators, Herb Gray's four decades in the public service in this country showed that negativity and adversity only exist to be defeated. Like all those in the legions of the great, his life has been filled with undying purpose in the face of overwhelming obstacles and with a sharp mental focus in maintaining a clear picture of what he wanted, then applying his enormous personal energies towards the attainment of his goals.

The life of the Right Honourable Herb Gray has always been a wonderful illustration of the kind of spirit it takes to see every day as a new challenge — and never, never quit. I am talking about 14,397 straight days of service, honourable senators, with each day taken as a gift, as a fresh start, to be approached with optimism and discipline. I am talking about his passion for rock and roll music, his one-of-a-kind deadpan humour, the power of a superb intellect and always with an enormous grasp of complex national issues which I was privileged to witness on many occasions, first hand.

To me, Herb was the ultimate public servant and a friend to every region of this country. Herb Gray's career has always been a reflection of the intellectual foundations on which this country was built, of reform and social justice, of compassion and intellectual commitment to people. With sincerity and personal rectitude, Herb — always a gentleman — has spent a lifetime in the service of the continuing adventure, the continuing development of the ideal, which is Canada.

As Herb moves on to his new career as Chairman of the International Joint Commission, we salute his incredible service to Canada. We wish him good health and every success in his future interesting and very challenging responsibilities.

### HERITAGE

#### MEN WITH BROOMS AND

#### TAGGED: THE JONATHAN WAMBACK STORY—CULTURAL ISSUES

**Hon. Laurier L. LaPierre:** Honourable senators, I always have good news. I have good news today because a movie made by Canadians is a success at the box office. It made over \$1 million in its first week and that figure will climb more and more. This movie, *Men with Brooms* is about the sport which, I am told, is called curling, which appears idiotic on the face of it. It is a movie that calms spirits and encourages love with girls and the making of it. By all accounts, it is a marvellous film starring the most magnificent Paul Gross.

I encourage all honourable senators to see this movie. Pay the money and eat the popcorn — enjoy! Above all, tell your friends, people on the streets and in the corridors, how good this movie is. Honourable senators, I encourage you to enjoy this Canadian film. It will change your personalities considerably. Most of our personalities need much changing.

My second piece of good news is about a young man by the name of Jonathan Wamback who was severely wounded by bullies in school. He lost most of his brain, had immense difficulty speaking, and could not walk. On Monday night of this week, CTV — out of the shop of the great Bill Mustos — aired a magnificent movie called *TAGGED: The Jonathan Wamback Story*. It is a magnificent statement to human resilience, courage, determination and love.

Honourable senators, there is a seven-minute scene in this movie of astonishing magnificence by Tyler Hynes who plays the part of Mr. Wamback. The scene depicts the first time Jonathan goes to school after years of being absent. He gets out of his car, he hangs on to the door and he walks from his car to the entrance of the school — a walk that must be 18,000 kilometres long — with the most astonishing courage and beauty and, as I said before, resilience.

This movie is a fine example of a Canadian story. It reflects the value of all the work and effort that the Canadian government, under the Minister of Heritage and the Prime Minister, puts into the making of films and television programs to tell our stories to Canadians. I beg of you, honourable senators, enjoy Canadian television. I hope that one day we will establish a committee for culture and heritage so that, in this holy hall, people will be able to speak about the soul of our country at any time they desire.



• (1340)

## HEALTH

### COST OF MEDICATION

**Hon. Catherine S. Callbeck:** Honourable senators, as I rise today, a woman in my home province is worrying about how she and her family will come up with the money they need to buy the medication required for her to survive.

Wilna Toombs struggles with pulmonary hypertension which, if left untreated, will kill her. However, as with many other serious diseases, there is a treatment. As with many other treatments, it is extremely expensive. The medication that Wilna receives is called Flolane. It costs more than \$100,000 a year. While some of this cost is covered by private insurance, Wilna and her husband absorb a great deal of it. Wilna and her husband must use all the money that they have saved, including their RRSPs, before they can receive any assistance from the provincial government. This threatens their present livelihood and, equally important, it threatens their retirement.

I am deeply saddened to learn that Wilna has been failed by our health care system. The reason that I am telling you of Wilna's case, honourable senators, is because I believe that it illustrates a fundamental gap in our health care safety net. Indeed, while our nation's health care system is something that Canadians have always been proud of, it is important to note that, contrary to what most people believe, what we now have is really a hospital and doctor system, not a health care system. What we need is a system with some form of public insurance that will help people, such as Wilna, to deal with the catastrophic cost of drugs.

Recognizing this problem, I am pleased that the Standing Senate Committee on Social Affairs, Science and Technology, of which I am a member, will, as part of its health care study, include a study on how to ensure that situations like Wilna's do not arise in the future. The Senate committee report will include recommendations on how to ensure that Canadians do not suffer undue financial hardship as a result of increasing catastrophic drug costs.

Honourable senators, I feel that this study is a good step toward strengthening one of Canada's most treasured assets, namely, its health care safety net.

[Translation]

### THE RIGHT HONOURABLE HERBERT ESER GRAY, P.C.

#### TRIBUTE

**Hon. Marie-P. Poulin:** Honourable senators, I would like to add my voice to the chorus of praises for the Right Honourable Herb Gray, that great example of a devoted parliamentarian.

This living legend is a man whose impact on our country will be felt for a long time to come. He has even added some class to rock and roll in Canada!

Last year, I had the pleasure of hosting an evening benefit event in Sudbury, at which Herb Gray was the showcase speaker. In other words, honourable senators, a Liberal event. To my great surprise, there were as many Conservatives as Liberals in attendance. At the end of the evening, in thanking people for attending, I do not know how many times I heard: "Senator, we could not miss the opportunity to hear of Canada's most respected statesmen, even if it meant contributing to your fund to do so!"

I join my colleagues in paying tribute to an extraordinary Canadian and wish him much happiness and all possible good fortune in his new duties with the International Joint Commission. I am told that its Ottawa offices have never seen as many VIP visitors as they have since Herb's appointment. Is this not more proof of the esteem in which so many people hold this distinguished Canadian?

### THE LATE JEAN-PAUL RIOPELLE

#### TRIBUTE

**Hon. Lucie Pépin:** Honourable senators, yesterday we were greatly saddened to learn of the passing of Jean-Paul Riopelle at the age of 79. Today, I wish to pay tribute to this great artist, an important figure in the annals of modern art, a master of his craft, considered by some to have been one of the greatest painters of the 20th century.

The reputation of this great Canadian went far beyond his native Quebec. His works are exhibited in all the major capitals of the world and hang in some of the great private collections in Canada and elsewhere.

Jean-Paul Riopelle was born in Montreal on October 7, 1923. At the early age of 10, he began taking lessons from Henri Bisson, who taught drawing at Saint-Louis-de-Gonzague school. In 1939, he entered Montreal's École Polytechnique, where he studied for two years. Between 1943 and 1945, in spite of his parents' opposition, Riopelle took classes at Montreal's École des Beaux-Arts, and then got a degree from the École du Meuble.

At the École du Meuble, under the guidance of his teacher, Paul-Émile Borduas, he joined the group of painters called the automatists. That is when Riopelle found his way. Surrealism allowed him to make full use of his creative energy.

From then on, his career took off. In 1946, while showing his works with the automatists, he travelled to Paris and Germany, and he also took part, along with Barbeau, Mousseau, Leduc, Gauvreau and Ferron, in the international surrealist exhibition, in New York.

In 1948, after signing the *Refus global* manifest, the "cornerstone of Quebec's passage to modernity," he settled in Paris, where he made his mark and built an international reputation.

Riopelle's success is largely due to his conception of art, which left no one indifferent. He used to say: "In my opinion, a painting is never the reproduction of an image. It always begins with a vague feeling...the desire to paint...but no graphic idea. The picture begins where it wants...but after that, everything comes together. That is the essential point..."

Riopelle did not just paint. He excelled at various genres. Jean-Paul Riopelle made lithographic prints and also several drawings, including his famous geese. He also did sculptures.

Riopelle's talent was formally recognized a number of times. He received an honourable mention at the Sao Paulo Biennial, in 1995, the Guggenheim international award, in 1998, the Grand Prix de la Ville de Paris, in 1998, and many other awards.

On behalf of all Canadians, I wish to pay tribute to this genius for his contribution in promoting our country's culture.

[English]

## ROUTINE PROCEEDINGS

### FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Peter A. Stollery**, Chair of the Standing Senate Committee on Foreign Affairs, presented the following report:

Wednesday, March 13, 2002

The Standing Senate Committee on Foreign Affairs has the honour to present its

#### ELEVENTH REPORT

Your Committee, to which was referred Bill C-35, An Act to amend the Foreign Missions and International Organizations Act, has examined the said Bill in obedience to its Order of Reference dated Friday, December 14, 2001, and now reports the same without amendment.

Respectfully submitted,

PETER STOLLERY  
*Chair*

**The Hon. the Speaker pro tempore**: Honourable senators, when shall this bill be read the third time?

On motion of Senator Stollery, report placed on Orders of the Day for third reading at the next sitting of the Senate.

[ Senator Pépin ]

[Translation]

### CANADA-FRANCE INTER-PARLIAMENTARY ASSOCIATION

REPORT OF CANADIAN SECTION TO  
THIRTY-FIRST ANNUAL MEETING TABLED

**Hon. Lise Bacon**: Honourable senators, I have the honour of tabling the report of the thirty-first annual meeting of the Canadian Section of the Canada-France Inter-Parliamentary Association, which was held in Toronto, New Brunswick, Nova Scotia and Prince Edward Island, from September 3 to 7, 2001.

●(1350)

[English]

### CANADIAN NATO PARLIAMENTARY ASSOCIATION

DEFENCE AND SECURITY COMMITTEE MEETINGS  
FROM JANUARY 27 TO FEBRUARY 2, 2002—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Shirley Maheu**: Honourable senators, I have the honour to table the eleventh report of the Canadian NATO Parliamentary Association, which represented Canada at the meeting of the Defence and Security Committee of the NATO Parliamentary Assembly held in Washington, D.C. and Tampa from January 27 to February 2, 2002.

## QUESTION PERIOD

### NATIONAL DEFENCE

WAR IN AFGHANISTAN—ORDER IN COUNCIL EXTENDING  
VETERANS BENEFITS TO TROOPS—  
REQUEST FOR WRITTEN POLICY

**Hon. J. Michael Forrestall**: Honourable senators, my question is for the Leader of the Government in the Senate. As the minister knows, Canadian troops have moved into the front lines in Afghanistan. Can the minister tell us if the government has issued an Order in Council extending special benefits or veterans' benefits to these men and women participating in Operation Apollo and/or the war on terrorism? If so, would she table a copy of that Order in Council in this chamber?

**Hon. Sharon Carstairs (Leader of the Government)**: Honourable senators, I thank the honourable senator for the question. As the honourable senator has indicated this afternoon, the forces from our country that are serving in Afghanistan are serving in areas of combat, and what may be quite intense combat.

My understanding is that it is no longer necessary for such an Order in Council to be issued. When our forces are serving in conditions such as they are in Operation Apollo, such an order is automatic. I understand that came about as a result of a change in policy.



**Senator Forrestall:** Honourable senators, my apologies to the chamber. I was not aware of the change in policy. Frankly, I cannot remember when the last piece of major defence legislation was before us.

What I am interested in is where we would find the policy outline. Canadians should know, since we no longer need to declare war to extend the benefits, where we might find the precise wording of that policy.

**Senator Carstairs:** Honourable senators, as the honourable senator will understand, I shall need to provide the precise wording and table same in a delayed answer to him.

I understand, Senator Murray had asked a similar question and I made inquiries at that time. On the basis of that, I believe I provided the information to Senator Murray and tabled that answer. However, I shall try to locate same and ensure that the information is available to Senator Forrestall.

### SOLICITOR GENERAL

RCMP—TREATMENT OF CONSTABLE MICHAEL  
FERGUSON—PAYMENT OF LEGAL FEES

**Hon. Gerry St. Germain:** Honourable senators, my question is directed to the Leader of the Government in the Senate and concerns RCMP Constable Mike Ferguson. Constable Ferguson was involved in an unfortunate incident in the province of Alberta and appeared before the Provincial Court of Alberta. I am not inquiring into the court matter; rather, I am concerned about how the member is being treated by the Department of Justice and the Treasury Board in Ottawa. The issue is the non-payment of Constable Ferguson's outstanding and continuing legal fees incurred to mount his defence, which I understand is the obligation of the federal government. The government agreed to cover these defence costs, but the non-payment to the original defence team has resulted in their withdrawal from the case. When will the Treasury Board pay these people for the services they rendered to the government?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the Honourable Senator St. Germain for this question and for alerting me to this matter. As the honourable senator is aware, I do not have that detailed information at my fingertips. This is clearly an important matter for someone who is before the courts. I shall try to provide a reply as soon as possible.

**Senator St. Germain:** Honourable senators, having been a member of the police forces in Canada as well as a member of the police union, I know that this is a trying situation for this young family. I understand that the honourable minister does not have the response at her fingertips. However, I would urge that she pursue this matter as quickly as possible.

**Senator Carstairs:** Honourable senators, the reality is that legal costs in this country, when confronted by most Canadians, are a challenge to pay. When legal counsel drops out due to non-payment of fees, that creates an added hardship. I shall verify the facts in this situation and respond to the honourable senator very quickly.

## ORDERS OF THE DAY

### ROYAL ASSENT BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-34, respecting royal assent to bills passed by the Houses of Parliament.

**Hon. Jeremiah S. Grafstein:** Honourable senators, I wish to move a motion in amendment. I intend to move same and then adjourn the item in my name to speak to the matter briefly tomorrow in order to allow the opposition an opportunity to peruse my motion, knowing the interest that the Leader of the Opposition has in this particular bill.

#### MOTION IN AMENDMENT

**Hon. Jeremiah S. Grafstein:** Therefore, honourable senators, I move, seconded by Senator Ferretti Barth:

That Bill S-34 be amended in clause 3 by adding the following after subsection 2:

3(3). The signification of royal assent by written declaration may be witnessed by more than one member from each House of Parliament.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Senator Grafstein:** Honourable senators, I should like to adjourn the debate on this amendment so that I may speak to the matter tomorrow. This will allow the opposition an opportunity to peruse the amendment. I hope that honourable senators will find that the motion is consistent with the bill and the report of the committee.

On motion of Senator Grafstein, debate adjourned.

• (1400)

[Translation]

### CRIMINAL LAW AMENDMENT BILL, 2001

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the third reading of Bill C-15A, An Act to amend the Criminal Code and to amend other Acts, as amended.



**Hon. Gérald-A. Beaudoin:** Honourable senators, I wish to say a few words at third reading of Bill C-15A. This bill deals with a number of topics, including: sexual exploitation of children and the disabled, modernization of criminal procedure, home invasions, and the very important topic of review of miscarriages of justice.

This bill gave rise to many debates in the Senate and the Standing Committee on Legal and Constitutional Affairs. Once again, this committee did an excellent job; a report recommending a few amendments to the bill was tabled and concurred in.

In addition, an amendment put forward by Senator Joyal was agreed to. This amendment is a clear improvement to Bill C-15A in that it spells out to whom the Minister of Justice may delegate his powers when an application for review is made and an inquiry is launched for the purpose of determining whether there has been a miscarriage of justice.

There is no doubt in my mind that someone presiding over such an inquiry must have legal training; a retired judge, a member of a provincial bar, or anyone with similar experience meets this criterion.

Such an addition helps ensure greater impartiality in the process. But for this impartiality to be more complete, more certain, we must go one step further and create a commission similar to the United Kingdom's Criminal Cases Review Commission.

Miscarriage of justice is a topic of great interest to me. I will not deny that I find the British system excellent. It respects the principle of judicial independence. It also respects our judicial system.

[English]

The *Sussex* case of 1924 sets forth the principle of our judicial system: "...justice should not only be done, but should...be seen to be done."

Canada is a great democracy because our judicial system is strong and independent, because in each province the bar is independent and, at the national level, the Canadian bar is also independent.

Members of each bar appear before our committees, and in particular before the Standing Senate Committee on Legal and Constitutional Affairs. The British Act of Settlement of 1701 is part of our Constitution. We inherited those values by virtue of the preamble of the Constitution.

[Translation]

All this work in committee was done conscientiously and free of any partisanship. In my view, the Senate played its role and improved the legislation. Bill C-15A, as amended, has my approval.

On motion of Senator Stratton, for Senator Andreychuk, debate adjourned.

[English]

## YUKON BILL

### THIRD READING—DEBATE ADJOURNED

**Hon. Ione Christensen** moved the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

She said: Honourable senators, we are now at third reading of Bill C-39, to amend the Yukon Act. This is a bill to devolve land, mineral and water management to the Government of the Yukon and to recognize, in law, the practice of self-government that has been in place for two decades.

I wish to thank those senators who participated in the review of this legislation and also those who worked in committee and appeared as witnesses: the minister and his officials, officials from the Government of the Yukon, Tribal Chief Hammond Dick and his negotiators from the Kaska Nation, Chief Andy Carvill and his negotiators from the Carcross/Tagish First Nation, and the White River and Kwanlin Dun First Nations, for their written submissions.

There are, however, many others over the years who have contributed to the evolution of this bill. There are the ministers of DIAND, starting with the Prime Minister back in the 1960s; members of Parliament, both Mr. and Mrs. George Black, Erik Nielsen, Audrey McLaughlin, Louise Hardy, and today Larry Bagnell. There are the commissioners: F.H. Collins, James Smith, Gordon Cameron, Arthur Person, Doug Bill, Ken McKinnon, Judy Gingell and Jack Cable. There are also the government leaders: Chris Pearson, Tony Penikett, Piers McDonald, John Ostashek and, today, Pat Duncan. Then there are all the Yukon First Nations leaders, starting with Grand Chief Elijah Smith through to today's Grand Chief Ed Schultz, in their long struggle to settle Aboriginal claims so that we could all work together as Yukoners to develop a strong, united Yukon.

Contributions to the Yukon Act stem from people of every political stripe and ethnic background. I have named only a few. There are many others who have worked in their own way over the years so that this could happen.

During our review in committee and in correspondence received, several questions were raised, which should be addressed here for the record. The following are the responses I received from the Minister of DIAND.

The first response related to concerns that were raised by the Yukon francophone community with regard to the protection of language rights. It reads:

The relevant provisions contained in the Devolution Transfer Agreement (DTA) and the *Yukon Act* reflect the importance both governments attach to ensuring that services in both official languages continue to be made available to Yukoners. Provisions pertaining to the continuity of services in both official languages, after devolution, are set out in chapter 2 of the DTA. Federal and Yukon government negotiators met on several occasions with representatives of the Yukon francophone community. The provisions contained in the DTA are a result of the views expressed during those consultations.

Specifically, after devolution, the DTA provisions ensure that the Yukon Government will provide communications and services to the public in respect of land and resource management programs in both English and French in a manner similar to the services now provided by the Department of Indian Affairs and Northern Development under the *Official Languages Act*. The DTA sets out criteria for the provision of services to the public in both official languages in the future as population and/or demand for services change. These criteria are based on those set out in the federal Official Languages (Communications with and Services to the Public) Regulations.

• (1410)

After the transfer, territorial legislation in relation to public lands, mineral resources, forest resources or water resources will require that notices or advertisements for information to the public be printed in English and French in at least one publication in general circulation within each region where the matter applies. Both English and French are to be given equal prominence in the notice or advertisements. Signs at territorial offices offering services with respect to public lands, mineral resources, forest resource or water resources will be in both English and French, each language being given equal prominence.

There will be a complaint mechanism available to the public through the Yukon Government's Bureau of French Language Services. The DTA provides that language rights will be incorporated into territorial legislation. Therefore, the public will have the option of obtaining remedies through the courts.

Questions were raised regarding the Rupert's Land and Northwestern Territory Order of 1870, having precedence over section 35 of the Constitution. The response read:

The precise scope and effect of the *Rupert's Land and Northwestern Territory Order*, the 1870 order, are the subject matter of outstanding litigation. It is far from being certain that the 1870 order provides rights and obligations over and above those already protected by section 35 of the *Constitution Act*, 1982.

A general non-derogation clause in respect of the constitutional obligations owed to the Aboriginal people was included in the DTA at the request of the Yukon First

Nations. The purpose of this clause in the agreement is to ensure that, were First Nations to sign the agreement, they would not inadvertently be waiving any of their constitutionally protected rights.

A similar non-derogation clause is not required in the proposed Yukon Act since, unlike the DTA, there is no possibility that legislation enacted by Parliament could be interpreted as operating as a waiver on the part of First Nations. The new *Yukon Act* cannot diminish the protection given by the Constitution to the rights of the Aboriginal people, including any protection that may be provided by the 1870 order. After the coming into force of the new Yukon Act, the Yukon Government will remain subject to all of the relevant provisions of the Constitution.

Concerns were raised about the March 31, 2002, cut-off date for negotiating land claims in the Yukon. It was felt that at least six more months would be needed to complete the process. The subject was raised by our two witnesses and also in letters from the White River and the Kwanlin Dun First Nations. It would be safe to say that all six Yukon First Nations who have not signed a final agreement would share this concern.

The response reads:

In March of 2000, Cabinet extended the negotiating mandate for Yukon First Nations. Shortly thereafter, the Minister of Indian Affairs and Northern Development met with the Carcross/Tagish First Nation, the Kaska First Nation and other Yukon First Nations to set out the broad financial parameters of the mandate and to emphasize that negotiations would be discontinued on March 31, 2002, if agreement could not be reached on the basis of that mandate. The minister met with all Yukon First Nations on two subsequent occasions to repeat that message.

The current negotiating mandate timeline applies in respect of Yukon First Nations. Canada's negotiator reports that excellent progress has been made towards achieving subsequent agreements with the Yukon-based Liard First Nation and the Ross River First Nation by March 31, 2002, and that conclusions of negotiations of those claims is achievable by that date. The Kaska Nation, comprising these two Yukon-based first nations and one British Columbia-based organization, the Kaska Dene Council, has chosen to work towards the simultaneous conclusion of the agreements for all three entities.

Further negotiation work is required in relation to the British Columbia-based Kaska Dene Council transboundary claim in the Yukon. Since the timeline set out in the mandate does not apply to this negotiation, the parties will be able to continue this work after March 31, 2002. The Kaska Nation's position that the Yukon-based Liard and Ross River negotiations cannot be concluded by March 31, 2002, is based on its decision to attempt to conclude all of its claims jointly and is not reflective of the lack of substantive agreements at the Yukon-based First Nations' negotiating table.



Negotiations with the Carcross/Tagish First Nation (CFTN) have been underway since 1995. In June of 1999, the CFTN confirmed that negotiations were very near completion. Nine months later, the First Nation suspended its negotiations with Canada and Yukon. The CFTN returned to the negotiating table in July 2001, after a year and a half hiatus. Since negotiations have resumed, numerous efforts have been made to facilitate the resolution of outstanding matters. Recent negotiating sessions indicate that it would be possible to reach substantive agreements and to conclude negotiations within the established time frame of March 31, 2002 if the Carcross/Tagish First Nation accepted the basic terms of the Umbrella Final Agreement.

In recognition of the fact that the parties involved in the negotiations referred to above will need to make minor legal and technical adjustments and develop implementation plans and ratify agreements, a one-year period has been allocated for this work following March 31, 2002. This work, therefore, is scheduled to be completed before the planned effective date of devolution, which is April 1, 2003.

It is important to understand that, as anticipated in the Devolution Protocol Accord of 1998 signed by the federal government, the Yukon Government, the Council for Yukon First Nations, the Kwanlin Dun First Nation, the Liard First Nation, the Kaska Tribal Council (representing the Ross River Dene Council and the Kaska Dene council), negotiations of land claims and self-government agreements and of the transfer of land and resource management responsibilities to the Yukon Government are separate processes.

However, the devolution process has been designed to protect the progress that has been made at the claims negotiations and to safeguard the interests of the First Nations whose claims are still under negotiation. For instance, under the DTA, agreed-upon land selections at the land claim negotiations will be interim protected by the federal government prior to the effective date of devolution. After devolution, the Yukon Government is committed to continue these protections for at least a 5 year period.

Moreover, specific measures in the DTA will provide direct benefits for First Nations. For example, the DTA includes Yukon Government-First Nation Agreements which include establishing cooperative working arrangements with First Nation parties to the DTA in respect of developing Yukon's successor resource management legislation, and the Yukon government will consult with the First Nations on any amendments to the *Yukon Act* that may be contemplated in the future by the federal government.

Yukon First Nations will receive a share of the Yukon government's net fiscal benefits from resource revenues after devolution under the arrangements set out in the Umbrella Final Agreement. In addition, after devolution,

First Nations will benefit from the continued forest fire suppression beyond the 5 year time period provided for in the land claim agreements and from remediation of hazardous or contaminated sites on the First Nation settlement lands.

The DTA includes provisions for First Nations to become parties at any time prior to March 31, 2003. There is no requirement that First Nations have a completed land claims agreement to sign the DTA. The federal government would encourage all First Nations that were parties to the devolution negotiations to sign the DTA to fully share in all the benefits provided by the DTA. The DTA and Bill C-39 should not have any detrimental effect on the negotiation of land claim and self-government agreements. This will remain a different and separate process. Taken together, the DTA and Bill C-39 will put decision making on issues vital to the future of the Yukon where it belongs — with Yukoners. It is important, therefore, that progress continue to be made on implementing devolution, which will provide benefits to all Yukoners, Aboriginal and non-Aboriginal alike.

•(1420)

The Carcross/Tagish First Nation has expressed concern over the lack of security in the take-back clause of Bill C-39. They said:

These terms do not appear to contemplate a circumstance in which a court finds that a Yukon First Nation, without a final agreement, may have Aboriginal title to all or a portion of its traditional territory based on *Delgamuukw* or the subsequent common law tests. Any interim wrongful use of CFTN lands would be compensable, and frankly the indemnification clauses in favour of the Canada under section 64(1) do not give us any comforting reassurance that Yukoners can pay for such an award.

This would be where third party interests were involved. The response was as follows:

Balancing economic and other development benefits for Yukoners with the need to continue to find ways to complete land claims and self-government agreements, is a challenge the federal government and the Yukon Government already face now in carrying out land and resource management responsibilities. It is a challenge that the Yukon Government will face to a greater extent post-devolution until all remaining land claims are settled.

In negotiating the DTA and developing Bill C-39, the parties to the devolution process — the federal government, the Yukon Government and First Nations — sought creative ways to better address this challenge. As a result of these negotiations, the DTA sets out a number of provisions to ensure that potential risks are minimized.



Under the DTA, all lands selected under land claims negotiations in the Yukon will be interim protected by the federal government before devolution. These protections will be continued after devolution by the Yukon Government for at least five years. The Yukon Government has also committed to interim protection up to 120 per cent of the land quantum that might remain to be negotiated on April 1, 2003. As a result, no new interests will be created on the lands identified to form part of future settlements.

In addition, under the DTA, the Yukon Government has committed, pursuant to a communications protocol, to consult with First Nations, particularly those First Nations that have yet to conclude their land claims, on its lands and resource management policies and procedures as a further measure to safeguard First Nations' rights and interests, and to obtain the input of First Nations.

The DTA and Bill C-39 also provide for the federal government to take the administration and control of lands back from the Yukon Government or issue prohibition orders for the purpose of settling any remaining claims or otherwise for the welfare of Indians and Inuit.

Overall, therefore, through the DTA and Bill C-39, mechanisms have been designed to protect the interests of First Nations without settled claims and to put in place decision-making processes to minimize the risk of any infringement by the Yukon Government of the rights of First Nations in relation to lands and resources.

Lastly, I must point out that both First Nations who appeared before us requested we delay the passage of Bill C-39 for six months. It is not a long period but, by doing so, it would let them complete their negotiations and ratify their land claim agreements. As stated earlier, the minister has set a final date of March 31, 2002, for all agreements to be finalized. The witnesses felt that the date could not be met, but that six more months would in fact suffice. They felt delaying passage of Bill C-39 for six months would put more urgency on all parties to extend the deadline and to find solutions. However, there are other considerations.

Eight of the 14 Yukon First Nations have signed their agreements and they stand to have much-needed financial gains as soon as the DTA is implemented. Also, there is much to do over the next 12 months in preparation for the transfers from the federal government to the territorial government, not the least of which has to do with the fact that federal employees must receive offers of employment from the Yukon Government. Delaying this bill would maintain uncertainty for those employees and their families since no offers can be made until this bill is passed.

The other consideration is one that we in this place can appreciate perhaps more than others. Six months is a very long time for any bill to sit in either chamber, especially this year with the appointment of many new ministers and the Queen celebrating her fiftieth anniversary. In six months from now we

could see a new session of Parliament. The last thing we want is to have this bill die on the Order Paper after so many years of hard work.

The DTA is scheduled to come into effect in 12 months. A six-month delay would not change that date, but it would create great uncertainty. Passing Bill C-39 now will give 12 months, not six, for the completion of outstanding claims and still allow for all of the administrative transfer work to proceed; certainly a win-win situation for everyone.

In summary, honourable senators, I want to reiterate what I believe are the most critical aspects of this progressive legislation.

First, Bill C-39 enables us to implement the devolution transfer agreement. This is the primary purpose of the bill. I have already dealt extensively with the built-in protections for Yukon First Nations, their land claim process and land protection. Once Bill C-39 receives the approval of this chamber, the negotiated DTA will have the enabling legislation to become law, but not earlier than April 1, 2003. As the Umbrella Final Agreement provided the tools for the Yukon First Nations to become autonomous and marking a major step in the political evolution of the Yukon, so now the Devolution Transfer Agreement and these amendments to the Yukon Act mark yet another step in allowing Yukoners to be more responsible in the stewardship of their territory.

Second, the Yukon Act recognizes the political realities in the Yukon and the dramatic changes that have taken place since the days of 1979, when devolution took its first step.

Honourable senators, the third benefit in Bill C-39 is its modernization of terminology, consistent with current practices. As I stated in my opening remarks at second reading, much of this bill is dedicated to amending the words "Yukon Territory" to "Yukon" in the act itself and in all other federal legislation.

The fourth issue to keep in focus is the fact that it will result in consequential amendments to well over 100 pieces of affected federal legislation. Of particular note, four federal acts — the Quartz Mining Act, the Placer Mining Act, the Yukon Waters Act and the Yukon Surface Rights Board Act — will be repealed. In addition, the Territorial Lands Act will be made inapplicable to the Yukon. The legislation will also validate laws of the Yukon Legislature corresponding to the repealed and inapplicable federal laws.

Honourable senators, sponsoring Bill C-39 has been a personal privilege. Twenty-three years ago I was the commissioner who received a letter of instruction that changed the manner in which the Yukon government was administered. I resigned as a result. There were a number of reasons for such action, none of which had anything to do with loss of authority. However, the main reason was that I felt very strongly that the changes that were being made should be reflected in legislation and not just through a letter of instruction from a minister.

Today, almost a quarter of a century later, I am privileged to be in a position to sponsor Bill C-39 in this place — the bill that will give legislative certainty to that letter of October 9, 1979. Few people have such opportunities. For me, it is truly an event of destiny.

On motion of Senator Cochrane, debate adjourned.

●(1430)

## NUCLEAR FUEL WASTE BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Gill, for the second reading of Bill C-27, respecting the long-term management of nuclear fuel waste.

**Hon. Terry Stratton:** Honourable senators, it is my understanding that Senator Wilson would like to speak first. The rules state clearly that the second speaker has 45 minutes. However, we would like to put on notice that Senator Wilson will have 15 minutes and Senator Keon would then, as speaker for our side, have the 45 minutes.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**Hon. Lois M. Wilson:** Honourable senators, I thank you for this opportunity, since I have only a few days left in the Senate and I would like to have an input on this bill.

I wish to address some issues arising from Bill C-27. I do so from the perspective of one who served on the Environmental Assessment and Review Process Guidelines Panel appointed in 1989 for the review of nuclear waste management and the deep rock burial concept researched by Atomic Energy of Canada Limited in the late 1970s. The Seaborn panel — as it is popularly known — issued its final report in February 1998. I was one of eight panellists who met regularly over those nine years, hearing a great variety of witnesses who expressed all possible viewpoints on this particularly important issue in Canada. One criterion for selecting panellists was that we had not taken a public stand on nuclear issues. I cannot hope to address all the issues that emerged during those nine years, but I will try to highlight some of the important ones reflected in the bill.

Nuclear fuel waste, known as spent fuel or high level radioactive waste, is the used uranium fuel from nuclear reactors. It includes hazardous radioactive substances that must be isolated for millions of years to protect all living things from its toxic effects. On this there is full agreement.

Each company that runs nuclear reactors currently stores the nuclear fuel waste at the reactor sites, either in water-filled pools or dry storage cement canisters. To date there has been a good safety record on this type of storage, and the consensus is that

waste fuel can safely be stored by this method for up to 100 years. This leaves plenty of time to thoroughly research options that Canadians need in order to be fully informed and make a reasonable and informed decision. There need be no haste.

The federal government responded to the Seaborn panel in December 1998 with a report indicating that there was broad agreement with the panel in many areas. One area where general agreement does exist is in funding for waste management. The fuel waste owners will be required to fund the Waste Management Organization and the implementation of whatever plan is approved.

However, there were critical ways in which there was disagreement, and it is these I wish to highlight. The Seaborn's recommendations were built on two consensus panel conclusions, which are not adequately recognized in this bill. The first is that:

From a technical perspective, safety of the AECL concept has been on balance adequately demonstrated for a conceptual stage of development, but from a social perspective it has not.

You will notice that our conclusion was filled with caveats, such as "on balance" and "a conceptual stage of development," indicating that we were not at all convinced that the concept was technically safe. Indeed, 95 deficiencies in the technical proposal were documented. The last important phrase, "but from a societal perspective, it has not" — that is, social safety has not been adequately demonstrated — has been eliminated from all government documents, as though the concept of social safety is invalid or unknown, and that all that is required is to convince the uninformed public of the technical safety of the proposal. This duplicity does not build confidence with the informed public, some of whom attended the hearings and studied and read our recommendations.

The second conclusion, from which all else flows, was that:

As it stands, the AECL concept for deep geological waste disposal has not been demonstrated to have broad public support.

There was total panel consensus on this statement.

Bill C-27 differs from the recommendations of the Seaborn panel in a number of areas. I want to bring those to the attention of this chamber, as I think they weaken the bill and erode the confidence of the public.

First, clause 6 states:

The nuclear energy corporations shall establish a corporation...(to)

(a) propose to the Government of Canada approaches for the management of nuclear fuel waste; and

(b) implement the approach...



I am disappointed in this major decision, as the Seaborn panel has discovered that there is a great deal of mistrust by the public of nuclear energy corporations, based on experience over a few decades. We saw this legislation as a golden opportunity to establish an agency at arm's length from government, and from the AECL and the utilities, and thereby to ensure a fresh start, a new agency with players whom the public would trust. It would also guarantee the new agency's independence from vested interests. This bill does not do so, and my educated guess is that it therefore sets itself up for more and more confrontation with informed citizens in the future.

Second, we recommended that an advisory board be appointed by the federal government on the basis of proposals from professional organizations, including those that played an active part in the panel's hearings; that it meet frequently with the board and staff; and that it be heavily involved in all stages of agency work. Under the proposed legislation, this still could happen. However, clause 8(2) suggests that the advisory council reflect a broad range of scientific and technical disciplines, expertise in nuclear energy, expertise in public affairs, and expertise "as needed in other social sciences."

Our decade-long experience with this issue and a strong submission from the Royal Society, among others, confirmed that experts from the social sciences were as important to the process as were technical people. We had in mind an ethicist and a sociologist, who would develop an ethical and social assessment framework for this contentious issue. I should hope that the small phrase "as needed" is deleted from the bill.

Third, we recommended that multiple review mechanisms be put in place in order to ensure checks and balances, and strongly stated that Parliament itself be one such mechanism. Other mechanisms we recommended were federal regulatory control with respect to its scientific-technical work and the adequacy of its financial guarantees, policy direction from the federal government and regular public review. Since a broad public consensus on the most acceptable options is necessary before implementation begins, the Seaborn panel deemed it wise to accord wide review to the final proposal. Instead, this bill proposes review only through the minister. Clause 14(1) states that the minister "may" engage in such public consultations with the general public on the approaches set out in the study as the minister considers necessary. This permissiveness leaves entirely too much discretion to the minister of the day, who may well be influenced by political considerations.

Further, it is recommended in clause 15 that the Governor in Council shall select one of the approaches, and the decision shall be published in the *Canada Gazette*. I hope that the experts in public affairs will have the wit to ensure that this decision is widely known by the Canadian public, since a very select few are acquainted with or have access to the *Canada Gazette*, venerable as it may be. I think people in the far north of Ontario, where the nuclear waste is likely to be disposed of, will probably not know how to access the *Gazette*.

The bill directs the agency to explore and propose options for the disposal of nuclear waste and public consultation on these options, including consultation with the Aboriginal community. This is a very welcome part of this bill, since all things nuclear have to do in the public mind with fear, dread and mistrust. This cannot be allayed by information alone, which is why we recommended that persons with societal understandings be front and centre in the decision-making in this venture. Our recommendation was that a process of consultation with the Aboriginal community begin long before legislation is initiated, according to their criteria and their design, but this has not been done. However, the bill promises such consultations as the process develops. Many of us will be watching closely to see if in fact this happens.

Finally, I was a witness to the House of Commons committee that examined this bill. The only questions asked were by members of the opposition parties. I hope that when this bill goes to the appropriate Senate committee, it will be the subject of rigorous and detailed questions from all sides of this chamber. It is too important a matter to our children and grandchildren to be passed without more than the usual scrutiny.

On motion of Senator Keon, debate adjourned.

•(1440)

## BILL TO REMOVE CERTAIN DOUBTS REGARDING THE MEANING OF MARRIAGE

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Wiebe, for the second reading of Bill S-9, to remove certain doubts regarding the meaning of marriage.—(*Honourable Senator Jaffer*).

**Hon. Lois M. Wilson:** My understanding of the procedure is that Senator Jaffer ceded the floor to me in view of the fact I will not be here next week.

Honourable senators, on Bill S-9, to remove certain doubts regarding the meaning of marriage, I was raised with the idea that homosexuals needed extensive counselling in order to be like the rest of us. It was not until my adult years that my view gradually changed. I have a male friend whom I have known for 50 years who married and fathered children, two of whom I baptized. For some years we lived in the same provinces, but then we moved and I lost track of him. After a five-year interval, I ran into him again and immediately knew something significant had happened to him. "Your face is different," I said. "I cannot define it. What has happened?" His astonishing response was: "I have never been happier in my whole life. I have been a homosexual all my life, and my wife and I finally came to terms with it and I am now on my own. We parted amicably. My identity is now clear."



I could not deny this man's life or testimony. He is still the same responsible, caring person I had known at an earlier time. Now relieved of having to conceal what he fought against all his life, his sexual orientation, and now able to affirm who he was, he was free to live more affirmatively than ever before. A few years later, I met his male partner. I was an overnight house guest and rejoiced in the obvious love, mutuality and partnership evident in the relationship. He continues to see his former wife and children, with whom he maintains caring relationships.

If anyone could demonstrate to me his partnership with his male partner is any less responsible, any less in the qualities that make a healthy marriage, such as expressing one's sexuality through commitment, trust and love, any less a marriage than his former one with his then wife, I would be glad to hear it.

Is the main public interest in marriage reproduction, continuation of the species and procreation of children? I think not. A quote from the 1549 Church of England's Book of Common Prayer states the purpose of marriage is for the "hallowing of union betwixt man and woman, for the procreation of children." However, the 1549 Book of Common Prayer is not the law of Canada and has never been the law of Canada. The Book of Common Prayer is the prayer book of the established Church of England. We do not have a state religion in Canada, nor have we ever had a state religion. The dissenters suffered terrible persecution in England because of state enforced religion.

From the beginning of English rule, the enlightened policy of religious tolerance was the official policy of the day in Canada. However, sadly, Canada has also known religious intolerance. Some people thought that the Book of Common Prayer should be the law of the land. Ontario's first marriages were valid only if performed by priests of the Church of England. Marriages that I would have performed in those former days would not have been recognized as legally valid because I was not a priest of the Church of England. Even Catholic marriages were not recognized legally until 1847, and Jewish and other non-Christian marriages were not legally recognized until 1857. Fortunately, our society and our laws have moved somewhat beyond that time of intolerance.

Even the rituals of the Anglican Church of Canada ceased making the main purpose of marriage the procreation of children some time ago. In its 1959 prayer book, a prayer of the wedding ceremony for the expected children was bracketed with the admonition that "this prayer shall be omitted should the woman be beyond child bearing age." Wisely so. To tie marriage to the procreation of children denies the validity of marriages of post-menopausal women who cannot conceive children. In 1985, the phrase "and that they may be blessed in the procreation, care and upbringing of children" was removed from the prayer book and made optional.

In Canada, it is only required that the civil laws of the provinces and territories be met. The law also respects the human rights of those who are different under the Charter of Rights and

Freedoms. To deny these rights to those who are not mainstream is a violation of the Charter, a gross act of discrimination and a denial of the personhood against those who suffer that discrimination.

The law respects religious choice and diversity. For Christian people, all churches also provide a religious rite, but the Christian churches in Canada do not make the law as to who can marry. They do retain the right to decline to marry the people they do not believe are free to marry. Those people can always go to another church or to a civil authority. It is a reality that increasing numbers of persons of faith communities authorized to perform marriages continue to bless the "holy unions," as they are sometimes called, or "same gender covenants." Some faith communities have been presiding at holy unions and covenanting services for years. These include some reform Rabbis, ministers of the Metropolitan Community Church and some of the United Church, and even some Anglican bishops. Parliament cannot choose sides in the religious debate by enforcing one religious view of marriage on all. Otherwise, we are on the path to state religion, a concept that is currently unconstitutional and morally repugnant.

As we know, technological advances have made procreation of children possible by those who are members of the same sex. That is the reality. People marry even if they have no intention of having children or when they cannot do so. Yet their marriages are not denied legality. The Modernization of Benefits and Obligations Act, Bill C-23 of June 2000, makes it clear that marriage means "one man and one woman to the exclusion of all others." That is a quote from the 1866 UK judgment in the case of *Hyde v. Hyde*. That should give us pause. The *Hyde* case is not a Canadian case. It was decided in Victorian England, at a time when many women in Canada were not even persons in the eyes of the law. Since then, the law has changed and so has society, for the better, I think. The full definition from *Hyde* is this:

For this purpose I conceive that in Christendom, marriage is the lawful union of one man and one woman for life to the exclusion of all others.

This "purpose" was to deal with polygamy. It had nothing to do with same sex marriages. The phrase "in Christendom" is quaint. Canada is not officially Christian, and we value religious diversity and pluralism. The "for life" part came from the Church of England's definition of marriage, as it did not allow divorce. The inflexible *Hyde* case was good for England in 1866 but does not belong in Canada in 2002.

Not all homosexuals want to marry, but some do. Not all heterosexuals want to marry, but some do. Can we not respect diversity and choice in this country where we constantly boast of tolerance and pluralism? Some same-sex couples want a way to say publicly they are responsible for each other their whole lives long.

What about family values? The Supreme Court of Canada in a 1992 majority decision in the case *Moge v. Moge* said:

Many people believe that marriage and family provide for the emotional, economic, and social well-being of its members. Marriage and family are a superb environment for raising and nurturing the young of our society by providing the initial values that we deem to be central to our sense of community.

If marriage is the best place to raise children and same-sex couples choose to have children, surely those children should not be deprived of what is best for them. There is food for thought in Madam Justice L'Heureux-Dubé's comment on this worthy passage in her dissent in the 1993 case of the *Canada (Attorney General) v. Mossop* as follows:

...these values are not exclusive to the traditional family and can be advanced in other types of families. For example, while we may see marriage as an indicator of stability, it appears from the current rate of marriage breakdown that heterosexual union is not an absolute guarantee of stability....stability is a desirable value, but may be achieved in a variety of family forms....long lasting and stable relationships have been maintained outside the bounds of legal marriage, as well as within same-sex relationships.

In short, I hope the Senate does not pass this unnecessary bill. It is not necessary to make clear what has been the practice since at least the beginning of Confederation and confirmed ever since on numerous occasions. There is no need to try to make clearer what is already the law of the land. Remember that law is not static. I hope that individual senators follow closely the Ontario court case proposing recognition of same sex marriages. Among other things at stake is the continuing violation of basic human rights for a number of citizens of our country.

• 14500

**Hon. Anne C. Cools:** Will the Honourable Senator Wilson take a question?

**Senator Wilson:** Certainly.

**Senator Cools:** It will take some time to respond to all of the points Senator Wilson has made. However, in terms of the law of the land as it currently stands, could Senator Wilson share with this chamber the result of the legal court challenge in British Columbia respecting same sex couples' assertions that the law of marriage discriminated against them, asking the judge in the case, Justice Pitfield, to strike down marriage? What was Mr. Justice Pitfield's response?

**Senator Wilson:** Honourable senators, I am unable to answer that question.

**Senator Cools:** For the sake of the record, this chamber should be aware that there have been three challenges on the grounds Senator Wilson has described. In point of fact, the first judgment in the first case has been rendered, and the judge has

upheld marriage as between a man and a woman. The justice rejected all of the arguments put forward.

Honourable senators, perhaps I could defer and let my friend Senator LaPierre speak. He seems to want to say something.

**Hon. Laurier L. LaPierre:** Honourable senators, I was just telling Senator Cools that judges can be wrong.

**The Hon. the Speaker:** To ensure that we are following the proper procedure, I want the Honourable Senator Cools to know that she is entitled to ask a question. Senator Wilson accepted the question. We then gave the floor to Senator LaPierre.

**Senator Cools:** Out of order. I want an apology from this man.

**The Hon. the Speaker:** This is Senator Wilson's time. Does the honourable senator wish to comment?

**Senator Wilson:** The burden of my intervention was that I am aware of the law of the land and that there have been other court challenges and, in particular, I am familiar with the Ontario court challenge. I do not know how it will be resolved, but I would urge senators to pay close attention to it.

**Senator Cools:** I am certain that the honourable senator is as informed as she claims to be, but I am saying that the outcome in the first court challenge is already well known. I was hoping that, in terms of keeping a balanced record and in the hopes of maintaining a sufficient record here on this debate, Senator Wilson could share with the house the outcome of the first challenge.

The fact of the matter is that Mr. Justice Pitfield of the Supreme Court of British Columbia ruled, I believe last October 3, 2001, that marriage is between a man and a woman. In addition to that, I believe he upheld section 91.26 of the Constitution Act, 1867, which gives exclusive jurisdiction to the Parliament of Canada over marriage and divorce. Mr. Justice Pitfield upheld *Hyde v. Hyde* and the fact that the nation, as a nation state, has an unquestioned interest in the public interest that the phenomenon of marriage as an institution be between a man and a woman.

It is not wholesome or proper that debate in this chamber should proceed without bringing that to the attention of honourable senators. I was asking senator Wilson to put that on the record. If Senator Wilson is not informed, then she should at least receive this information because this is the current state of the law as it exists right now.

Again, could Senator Wilson comment on Mr. Justice Pitfield's findings?

**Senator Wilson:** I will be making no further interventions on the debate on this bill. It is my understanding that the point of interventions is to test the mind of the chamber. I assume that other honourable senators will wish to speak to Bill S-9, and they may, perhaps, fill in the deficiencies of my intervention.



**Senator Cools:** I would also submit, honourable senators, that the mind of this chamber has already made a judgment on this question, and that the mind of this chamber has already spoken — that marriage is between a man and a woman. I would refer honourable senators to Bill C-23, 2000 in respect of the Modernization of Benefits and Obligations Act, which Senator Wilson voted on and, indeed, supported. That bill upheld very clearly in statute that a marriage is between a man and a woman.

In addition, Bill S-4, in respect of the Federal Law-Civil Law Harmonization Act, No. 1, of the Province of Quebec, upheld that marriage is between a man and a woman. I submit to Senator Wilson and all other senators in the house today that those judgments of the chamber already made are binding on us as we speak.

**The Hon. the Speaker:** Does Senator Wilson wish to comment?

**Senator Wilson:** To reiterate, I know that this is the law. I also said that the law is not static and senators should monitor what is happening in the evolution of the law.

**The Hon. the Speaker:** Honourable senators, Senator Wilson's 15 minutes have expired.

On motion of Senator LaPierre, for Senator Jaffer, debate adjourned.

## LOUIS RIEL BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Chalifoux, seconded by the Honourable Senator Gill, for the second reading of Bill S-35, to honour Louis Riel and the Métis People.—(*Honourable Senator Stratton*).

**Hon. Laurier L. LaPierre:** Honourable senators, I rise to speak to Bill S-35. I take part in this debate because I must attempt to reconcile many conflicting elements that assail me in supporting Senator Chalifoux's proposal to honour Louis Riel and the Metis people.

I have no problem honouring the Metis people, but I do have a problem honouring Louis Riel. I find that he had the most enigmatic, paradoxical, perplexing and infuriating personality in the annals of our history. When this discussion about a possible pardon and recognition of some sort began some years ago, I was not particularly interested in changing by fiat what had happened in the past.

However, there was an injustice committed in November 1885. I have no doubt about that. Riel was not hanged because he led the rebellion, but rather he was hanged because he had participated indirectly in the execution of Mr. Thomas Scott. Therefore, the time has come to make amends for the harm caused, through time, to Louis Riel and his people.

Honourable senators, I have therefore decided to help with that process. I made that decision when I was writing about the relationship of Louis Riel and Sir Wilfrid Laurier. I will make Laurier's words my own for they constitute Riel's best defence and are the greatest homage to be paid to the Metis people. They also constitutes the best arguments for all of us to support Senator Chalifoux's bill before us.

Sir Wilfrid Laurier was elected to Parliament in the same election that elected Riel in 1874. His first speech in the House in English was related to Riel. In the fashion of Sir Wilfrid Laurier, I will speak in English on the matter of Riel because two of his most important speeches were in English and were about Riel.

Laurier first addressed the House on April 15, 1874, dealing with the treatment that the government proposed to deal with Louis Riel. There was much talk of putting Riel on trial for the execution of the Orangeman, Thomas Scott — an inconsequential twit, at best, and at the worst, a racist agitator from Ontario. It was an execution that took place during what is called the first Riel Rebellion in 1869-1870.

•(1500)

Laurier objected to the procedure as well as the exile being planned for Riel, because, as he said:

Since the days of the Magna Carta, never has it been possible on British soil to rob a man of his liberty, his property, or his honour except under the safeguard prescribed by tradition and the law.

Laurier was very proud of the rebellion of 1869-1870. In the same speech of 1874 he said:

'What were they fighting for, these brave men?' he asked his colleagues. All Riel and his friends 'wanted was to be treated like British subjects and not to be bartered away like common cattle. If that be an act of rebellion, where is the one amongst us who, if he had happened to have been with them, would not have been rebels as they were?' In conclusion he affirmed that, 'taken all in all, I would regard the events at Red River in 1869-70 as constituting a glorious page in our history, if unfortunately they had not been stained with the blood of Thomas Scott. But such is the state of human nature and of all that is human: good and evil are constantly intermingled; the most glorious cause is not free from impurity and the vilest may have its noble side.'

In 1876, Laurier met Riel in a rectory in Athabasca. He did not like him at all. He found Riel quite charismatic but highly disturbed and considered him a monomaniac.

The years passed by. Riel went to Montana, and the Métis of the Red River Valley, who were persecuted and taken advantage of, fled to the territory around Batouche on the North Saskatchewan River. Unable to obtain the rights and recognition they felt entitled to, they became restless. Gabriel Dumont, one of the greatest generals we have ever produced, and a few others, travelled by horseback to Montana to convince Riel to come back with them and lead the struggle for the recognition of the rights and liberties of the Metis people.



Riel accepted, and the rest you know well. A frightful battle ensued with many casualties, Riel's crazy antics, Dumont's superb talent, the courage of young and old men, the conspiracy of the men of a certain god to conspire with the Ottawa authorities, the futility of at all, the surrender of Riel on May 15, 1885, his being taken to Regina, and his trial and execution on November 16 1885.

Canada was never the same after that. Large unrest followed in the Province of Quebec with various assemblies condemning the Conservatives and the government of John A. Macdonald. Mourning, anxiety, fear, targeting, vulnerability, compassion and determination were the characteristics of the discussion. A part of us, I say that as a Québécois de longue souche, had died on the gallows in Regina.

As for Laurier, in these terrible days of this dreadful November 1885, he kept faith with his remarks of some 10 or 11 years previous. The sorry episode had been caused by the incursion of the federal government. The Metis cause was just, and had he been on the banks of the Saskatchewan,

I would myself have shouldered a musket to fight against the neglect of governments and shameless greed of speculators.

In the session of 1886, the debate moved to the House of Commons. There were more debates about this very sad moment in our history of our beloved country. On Tuesday, March 16, 1886, Wilfred Laurier rose to speak. History was about to be made.

It was late, almost 11 p.m. Zoë had arrived in Ottawa a few days earlier. She was sitting in the Speakers Gallery, waiting and knitting. She didn't know when it was actually to happen that night. The exact day and time had been left to the vicissitudes of the debate. The House was practically empty and the members were restive. From the front row on the left side of the Speaker, Laurier stood up. Zoë dropped her knitting and leaned forward in her seat. She saw several members on both sides...enter and take their seats. The gallery also filled up, and officers of the governor general's guard and members of his household arrived unannounced. Laurier, pale and coughing lightly, began to speak.

'Mr. Speaker,' he said, as he shuffled the papers on his desk and waited for the latecomers to take their seats. When he was satisfied that he had everyone's attention, he declared that Riel's death had been a judicial murder and that the *Canadiens* had not lost their heads. He admitted that if an injustice was committed against a fellow being, the blow fell deeper into his heart if it involved one of his kith and kin.

He reviewed the government's record and the procedure at Riel's trial. He found the former inexcusable and the latter unjust. Then, in prose unparalleled in the annals of

Canadian parliamentary debate, he had the courage to continue:

I appeal now to my friends of liberty in this house; I appeal not only to the Liberals who sit beside me, but to any man who has a British heart in his breast, and I ask, when subjects of Her Majesty have been petitioning for years for their rights, and these rights have not only been ignored, but have been denied, and when these men take their lives in their hands and rebel, will any one in this House say that these men, when they got their rights, should not have saved their heads as well, and that the criminals, if criminals there were in this rebellion, are not those who fought and bled and died, but the men who sit on these Treasury benches?

As for those who attacked him for his notorious remark...on the Champ de Mars on that Sunday in November, he attempted to explain the powerful reaction of his province to Riel's execution. He knew he wouldn't have an easy time of it but he felt impelled to do it just the same. The men who took up arms on the Saskatchewan, he pointed out, were in the wrong and their rebellion had to be put down. However, the men who waged that rebellion were 'excusable,' for they were the victims of hateful men who, having the 'enjoyment of power, do not discharge the duties of power; who, having the power to redress wrongs, refuse to listen to the petitions that are sent to them; who, when they are asked for a loaf, give a stone'... 'I ask any friend of liberty, is there not a feeling rising in his heart, stronger than all reasoning to the contrary, that those men were excusable?'

As for Riel himself, he was no hero to Laurier. 'At his worst, he was a subject fit for an asylum; at his best he was a religious and political monomaniac.' That he was insane was 'beyond the possibility of controversy.'

When Laurier was asked why Riel was executed, while his secretary, William Jackson, was not due to insanity, Laurier replied that it was because one was of English blood and the other was French.

Those were his sentiments and he shared them with his people. He would not apologize. Nor would he retract the words spoken on the Champ de Mars. Was he being disloyal? Certainly not. If the hypocrites of the Conservative Party expected him to allow fellow-countrymen like the Métis, 'unfriended, undefended, unprotected and unrepresented in this House to be trampled under foot by this government,' they had the wrong man. 'That is not what I understand by loyalty; I would call it slavery.'

He had spoken for over an hour and a half, but his words had a power that was compelling attention. Zoë sensed that the whole House was aware of it, for not a sound could be heard but the ticking of the clock. He looked in her direction, then he turned to the Speaker and, with great emotion and love, said:

Today, not to speak of those who have lost their lives, our prisons are full of men who, despairing ever to get justice by peace, sought to obtain it by war; who, despairing of ever being treated by free men, took their lives in their hands, rather than be treated as slaves. They have suffered a great deal, they are suffering still; yet their sacrifices will not be without reward. Their leader is in the grave, they are in durance, but from their prisons they can see that that justice, that liberty which they sought in vain, and for which they fought not in vain, has at last dawned upon their country. Their fate in the truth of Byron's invocation to liberty, in the introduction to the 'Prisoner of Chillon':

Eternal Spirit of the chainless mind!  
Brightest in dungeons, Liberty thou art!  
For there thy habitation is the heart —  
The heart which love of thee alone can bind;  
And when thy sons to fetters are consigned —  
To fetters and the damp vault's dayless gloom,  
Their country conquers with their martyrdom.

Yes, their country has conquered with their martyrdom. They are in durance today; but the rights for which they were fighting have been acknowledged. Two thousand claims so long denied have been at last granted. And more — still more. We have it from the Speech from the Throne...

That justice "could not come then, but it came after the war; it came as the last conquest of that insurrection."

●(1510)

Again, I say that their country has conquered with their martyrdom, and if we look at that one fact alone, there was cause sufficient, independent of all others, to extend mercy to the one who is dead and to those who live.

He then sat down, as I do. Thank you. Vive le Canada!

On motion of Senator Stratton, debate adjourned.

## FEDERAL NOMINATIONS BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stratton, seconded by the Honourable Senator Cohen, for the second reading of Bill S-20, to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions.—(*Honourable Senator Cools*).

**Hon. Anne C. Cools:** Honourable senators, it had been my intention to complete my remarks on this measure that the Honourable Senator Stratton has put before us, Bill S-20, to

provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions. As honourable senators know, I have frequently raised here the issue of Royal Consent and the phenomenon of the process by which a member of the opposition may be able to obtain a Royal Consent.

In any event, honourable senators, we are under a time constraint. Could I impose upon the Senate to be allowed to adjourn the debate and continue it on another day when our agenda is not so crowded and we are not under the constraint of time, as we are all trying to get out of this chamber by 3:30.

**Hon. Terry Stratton:** May I ask the honourable senator a question?

**The Hon. the Speaker:** Will you take a question, Senator Cools?

**Senator Cools:** Sure. I thought I was trying to take the adjournment, but I could take questions.

**The Hon. the Speaker:** Senator Cools is beginning a speech and adjourning it to the next sitting.

**Senator Cools:** As I said before, we are under a time constraint.

**The Hon. the Speaker:** Senator Cools is beginning a speech that she will adjourn, which is in keeping with our past practice. However, it is also a rule that if the senator whose time is before us in terms of speaking will take a question, then a question can be put or comment made.

**Senator Stratton:** Honourable senators, my point is very brief. This item has been on the Order Paper since last fall. It keeps getting kicked over and kicked over. I would ask that if the honourable senator were rewinding the clock, when would she speak?

**Senator Cools:** Very shortly.

**Senator Stratton:** What does "very shortly" mean?

**Senator Cools:** Soon.

**Senator Stratton:** I will respond in kind.

**The Hon. the Speaker:** It is moved by the Honourable Senator Cools, seconded by Senator Phalen, that further debate on the matter be adjourned until the next sitting of the Senate. Senator Cools will speak at that time and for the balance of the allotted time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.



## NATIONAL SECURITY AND DEFENCE

### MOTION TO AUTHORIZE COMMITTEE TO STUDY NEED FOR NATIONAL SECURITY POLICY—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cordy, seconded by the Honourable Senator Milne,

That the Standing Senate Committee on National Security and Defence be authorized to examine and report on the need for a national security policy for Canada. In particular, the Committee shall be authorized to examine:

- a. the capability of the Department of National Defence to defend and protect the interests, people and territory of Canada and its ability to respond to or prevent a national emergency or attack;
- b. the working relationships between the various agencies involved in intelligence gathering, and how they collect, coordinate, analyze and disseminate information and how these functions might be enhanced;
- c. the mechanisms to review the performance and activities of the various agencies involved in intelligence gathering; and
- d. the security of our borders.

That the Committee report to the Senate no later than June 30, 2003, and that the Committee retain all powers necessary to publicize the findings of the Committee until July 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.—(*Honourable Senator Maheu*).

**Hon. Shirley Maheu:** Honourable senators, I have a very brief question for Senator Cordy. Permission was requested to deposit the report on June 30, 2003, even if the Senate is not sitting. We all know that the Senate will not be sitting on June 30. None of us would have an opportunity to see the report until probably September or October. Would Senator Cordy please comment?

**The Hon. the Speaker:** Senator Maheu is using her opportunity to speak, and she has put a question. Perhaps we could reverse it, and Senator Cordy could make a comment, which the honourable senator is entitled to do under the rules.

**Hon. Jane Cordy:** I thank the honourable senator for the question. This matter was raised last week when I brought forward this motion. After it was moved in the house, I discussed it with other members of the committee. All committees in the Senate, I am sure, wish to make every effort to report to the Senate when the Senate is in session. It does not always happen.

I researched the occurrence of reports being submitted while the Senate was not sitting during the period since June 2001. The Standing Senate Committee on Agriculture and Forestry reported on June 28, 2001. The Standing Senate Committee on Fisheries tabled a report in June 29, 2001. The Standing Senate Committee on Social Affairs, Science and Technology tabled reports on September 17, 2001 and January 29, 2002. The Standing Senate Committee on National Security and Defence tabled a report on February 28, 2002.

Honourable senators, keeping in mind that all of these reports were tabled while the Senate was not in session, Senator Maheu raises a very valid point that perhaps all committees of the Senate should keep in mind when setting a date to table or present a report. While our report states "no later than," and I think all committees do that, traditionally the tabling or presentation of a report tends to be pretty darn close to the date that has been cited.

In consideration of the concerns that were raised by Senator Stratton and by other senators, members of our committee informally discussed what we should do because we want to do what is best for the Senate. With that in mind, a member of our committee will move an amendment today, if there is time, or at the next sitting. In the best interests of the Senate, we will propose to amend the reporting date.

•(1520)

### MOTION IN AMENDMENT

**Hon. Michael A. Meighen:** As the designated member of the committee, I would move the amendment. We could perhaps set a modest example and say that there can be no doubt that our report will be tabled when the Senate is sitting.

I move:

That the motion be amended in the penultimate paragraph to read:

That the Committee report to the Senate no later than October 30, 2003, and that the Committee retain all powers necessary to publicize the findings of the Committee until November 30, 2003; and

**Hon. John G. Bryden:** I rise on a point of order. Is Senator Meighen speaking on the report?

**The Hon. the Speaker:** No. Senator Meighen is moving an amendment to the motion. Did Senator Bryden wish to speak to the report?

**Senator Bryden:** Senator Meighen cannot just stand up and move to amend the reference to the committee.

**The Hon. the Speaker:** Just to recap what took place, Senator Maheu requested information on this matter. That information was sought from the last speaker, Senator Cordy. Senator Cordy provided the information sought by Senator Maheu.



Although I am sorry if honourable senators did not hear me, I then recognized Senator Meighen by calling his name. I saw Senator Bryden rising and that is why I asked him whether he wished to speak.

However, I did recognize Senator Meighen and I do so again.

**Senator Bryden:** Senator Cordy said that she believed another speaker would move an amendment. I take it Senator Meighen is that other speaker. If he is, once he has moved the amendment I can ask him if he will accept a question.

**The Hon. the Speaker:** Senator Bryden is quite right.

Will Senator Meighen accept a question?

**Senator Meighen:** Certainly.

**Senator Bryden:** My question relates to timing. As a member of the committee, does the honourable senator not find it unusual that, before the Senate has had the opportunity to debate or assess the value of the report that was prepared in accordance with the last order of reference, a request is being made for a further order of reference, when we do not know whether the first order of reference to this committee produced a report that was of any value?

Would it not be fairer to the members of the Senate if they had the opportunity to debate the report and assess the value of the committee's work before giving a further mandate? As we know, the opposition is having a heyday with the first report of the committee.

Would it not be appropriate for members of the Senate to have the opportunity to determine whether the first report of the committee is of sufficient value to the Senate and the people of Canada to justify extending the terms of reference?

**Senator Meighen:** I cannot speak to precedents in this matter, because I have no knowledge of precedents. However, as to the substance of the question, it seems to me that members on both sides of this chamber have been having a heyday with this report. They have been very interested in and concerned about it. The report has been in the possession of senators for some time. I appreciate that we have not yet had the opportunity to debate it's the substance of the report.

This order of reference flows from the work of the committee over the past number of months. This is what we are seeking the authority of the Senate to do. The purpose of my amendment is merely, as honourable senators can well appreciate, to clear up any possibility of a repetition of the tabling incident that caused disquiet on both sides of this chamber, and to ensure that, next time, senators receive a copy of the report as soon as it is tabled.

I cannot say whether it is the practice to defer consideration of a subsequent order of reference until debate has been exhausted on the first report. However, I can say that the matters we studied

in our initial report, which give rise to this order of reference, seem to me to be of reasonable urgency and not matters that would cause any prejudice to a full and open debate in this chamber on the findings of the initial report.

I am in the hands of the Senate. If the Senate prefers that we wait, that is what will happen. However, I do not think any prejudice would be caused if we were to proceed as I suggested.

**Senator Bryden:** Senator Meighen made reference to whether it is proper to introduce this motion when debate on the earlier report has not been exhausted. Has debate on the first report been initiated? Did the chair of the committee speak to his report?

**Senator Meighen:** Although I was not in the chamber, it is my understanding that Senator Banks adjourned the debate in his name. Therefore, I think it can be argued that the debate has been initiated, although I fully agree that it has not gone very far.

**Senator Bryden:** Has any honourable senator yet spoken to the report?

•(1530)

**Senator Meighen:** Although I was not present in the chamber, from what I read and I understand, Senator Banks merely adjourned the debate in his name. I do not think there has been any other speech than that, if one wishes to term that a speech.

**Senator Bryden:** It is fair to say the debate has not been exhausted.

**Senator Meighen:** It certainly is, unless you get tired very quickly.

**Hon. Lowell Murray:** Would the honourable senator indicate whether a request for funds has gone forward from this committee to the Standing Committee on Internal Economy, Budgets and Administration and, if so, for what amount to support this particular project?

**Senator Meighen:** Senator Murray has me at a disadvantage because he is far more versed in procedure than I am. My understanding is that it has not gone forward as yet, particularly because the order of reference has not yet been approved.

**Senator Murray:** Fair enough. I simply want to flag the fact that this order of reference, if it passes, as amended, together with a number of others, will bring in their wake a request for funds or a proposed budget before the Internal Economy Committee. Someone will correct me if I am wrong, but I have been told that the Internal Economy Committee now has before it almost \$4 million in proposed budgets as opposed to an available amount of some \$1.8 million. I do not want to single this one out, but our approval of this and other orders of reference must be done on the clear understanding that the Internal Economy Committee, and ultimately this chamber, will have some very difficult decisions to make and priorities to establish.

[ The Hon. the Speaker ]

**Senator Meighen:** Once again, I find myself in agreement with Senator Murray.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** On the amendment.

**The Hon. the Speaker:** To clarify, we are completing debate on an amendment moved by Senator Meighen, seconded by Senator Stratton. The question is on the amendment. It was moved by Senator Meighen, seconded by Senator Stratton, that the motion be amended in the penultimate paragraph by replacing the words "June 30, 2003" with "October 30, 2003" and by replacing the words "July 30, 2003" with the words "November 30, 2003."

Is it your pleasure, honourable senators, to adopt the motion in amendment?

Motion in amendment agreed to.

**The Hon. the Speaker:** Is the house ready for the question on the motion as amended?

[Translation]

**Senator Robichaud:** Honourable senators, we should continue with the practice that we have tried to establish lately. Before adopting the order of reference for a Senate committee, we should obtain information on the resources that will be

required to carry out the order of reference. In order to ensure that we have all of this information, I propose adjourning debate.

On motion of Senator Robichaud, debate adjourned.

## STATUS OF PALLIATIVE CARE

### INQUIRY—ORDER STANDS

**Hon. Michael Kirby** rose, pursuant to notice of February 5, 2002:

That he will call the attention of the Senate to the status of palliative care in Canada.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and the Honourable Senator Kirby, I ask that this inquiry stand in the name of the Honourable Senator Cordy from now on. The latter has agreed that this inquiry stand in her name.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Thursday, March 14, 2002, at 1:30 p.m.

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OFFICIAL REPORT  
(HANSARD)

Thursday, March 14, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER





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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Thursday, March 14, 2002

The Senate met at 1:30 p.m., the Speaker *pro tempore* in the Chair.

Prayers.

### ROYAL ASSENT

#### NOTICE

The Hon. the Speaker informed the Senate that the following communication had been received:

RIDEAU HALL

March 13, 2002

Mr. Speaker,

I have the honour to inform you that the Right Honourable Adrienne Clarkson, Governor General of Canada, will proceed to the Senate Chamber, on the 21st day of March 2002, at 3:00 p.m., for the purpose of giving Royal Assent to certain bills of law.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa

[English]

## SENATORS' STATEMENTS

### QUESTION OF PRIVILEGE

#### NOTICE

**Hon. Anne C. Cools:** Honourable senators, pursuant to rule 43(7) of the *Rules of the Senate*, I hereby give oral notice that I will rise later this day to address a question of privilege in respect of certain actions taken and certain words uttered during the Senate debate on Wednesday, March 13, 2002, which actions and words are breaches of the privileges of the Senate.

Honourable senators, I will be asking the Speaker of the Senate to make a *prima facie* ruling. If he does, I am prepared to make the necessary motion on the subject matter.

Honourable senators, earlier today, pursuant to rule 43(1), I had given written notice to the Clerk of the Senate that I had intended to raise this question of privilege.

### KIDNEY MONTH

**Hon. Yves Morin:** Honourable senators, every day 12 people in Canada learn that their kidneys have failed. More than 23,000 people are now on dialysis or living with a kidney transplant, and the number of people requiring such renal replacement therapy is expected to double in the next 10 years. All told, more than 2 million Canadians are affected by kidney disease or related disorders.

March is Kidney Month in Canada, the month when we think of those who suffer from kidney disease and those who are predisposed to it. People with high blood pressure are at risk for kidney disease, as are those with diabetes, which now affects one in every 13 Canadians. Aboriginal people with diabetes and the elderly are at particular risk.

[Translation]

If we have made great progress as far as kidney disease is concerned this is due to the work of great pioneers, such as Dr. Yves Warren, who created one of the country's first systems for hemodialysis and kidney transplant at the Hôtel-Dieu de Québec. He managed to gradually train an enthusiastic team of nephrologists who were involved not only in patient care but also in teaching and research. I would like to pay particular tribute to Dr. Warren and all the other pioneers in the field of kidney disease to whom we owe so much.

[English]

The Kidney Foundation of Canada funds nearly half of the \$10 million that is spent each year in Canada on kidney research. Interestingly, chronic disease such as kidney disease, cardiovascular disease and diabetes share some common mechanisms, predisposing risk factors, treatment and prevention strategies, and impacts on health services and systems.

The Kidney Foundation of Canada has formed a partnership with the Canadian Institute of Health Research through its Institute of Nutrition, Metabolism and Diabetes, under the able leadership of Dr. Diane Finegood. This partnership funds programs for interdisciplinary research focused on the common and related aspects of kidney disease.

[Translation]

This type of co-operation is what gives us the hope of being able to provide definitive help to all Canadians with diseases of the kidney.



• (1340)

Thursday, March 14, 2002

[English]

## ROUTINE PROCEEDINGS

### THE ESTIMATES, 2001-2002

REPORT OF COMMITTEE ON NATIONAL FINANCE  
SUPPLEMENTARY ESTIMATES (B) PRESENTED

**Hon. Lowell Murray:** Honourable senators, I have the honour to present the eleventh report of the Standing Senate Committee on National Finance, which deals with the Supplementary Estimates (B), 2001-2002.

(For text of report, see today's Journals of the Senate, Appendix, p. 1297.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[Translation]

### THE ESTIMATES, 2001-2002

REPORT OF COMMITTEE ON NATIONAL FINANCE PRESENTED

**Hon. Lowell Murray:** Honourable senators, I have the honour to present the twelfth report of the Standing Committee on National Finance on the Estimates for the financial year ending March 31, 2002.

(For text of report, see today's Journals of the Senate, Appendix, p. 1303.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

[English]

### PAYMENT CLEARING AND SETTLEMENT ACT

BILL TO AMEND—REPORT OF COMMITTEE

**Hon. Richard Kroft,** for Hon. E. Leo Kolber, Chairman of the Standing Senate Committee on Banking, Trade and Commerce, presented the following report:

The Standing Senate Committee on Banking Trade and Commerce has the honour to present its

### FOURTEENTH REPORT

Your Committee, to which was referred Bill S-40, An Act to amend the Payment Clearing and Settlement Act, has, in obedience to the Order of Reference of Tuesday, March 12, 2002, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

E. LEO KOLBER  
Chairman

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Kroft, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

[Translation]

### ROYAL ASSENT CEREMONY

NOTICE OF MOTION TO PERMIT  
TELEVISION COVERAGE IN CHAMBER

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I give notice that on Tuesday next, March 19, 2002, I will move:

That television cameras be authorized in the Chamber to broadcast the Royal Assent ceremony scheduled for March 21, 2002, with the least possible disruption of its proceedings.

### CANADA-JAPAN INTER-PARLIAMENTARY GROUP

TWENTY-SECOND GENERAL ASSEMBLY—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Marie-P. Poulin:** Honourable senators, I have the honour of tabling, in both official languages, the report of the twenty-second General Assembly of the Canada-Japan Inter-Parliamentary Group, which was held in Bangkok, Thailand, from September 2 to 7, 2001.

THIRD ANNUAL VISIT OF CHAIRMAN WITH DIET  
MEMBERS—REPORT OF CANADIAN DELEGATION TABLED

**Hon. Marie-P. Poulin:** Honourable senators, I have the honour of tabling, in both official languages, the report of the Canada-Japan Inter-Parliamentary Group on the Chairman's annual visit to Diet members, in Tokyo, from November 17 to 22, 2001.

## ASSEMBLÉE PARLEMENTAIRE DE LA FRANCOPHONIE

[English]

METTING OF FEBRUARY 10-13—  
REPORT OF CANADIAN DELEGATION TABLED

## QUESTION PERIOD

### FOREIGN AFFAIRS

#### RELATIONS WITH UNITED STATES

**Hon. Rose-Marie Losier-Cool:** Honourable senators, pursuant to rule 23(6), I have the honour to table, in both official languages, the report of the Canadian section of the Assemblée parlementaire de la Francophonie, and the related financial report. The report deals with the meeting of the APF's Commission de l'éducation, de la communication et des affaires culturelles, which was held in Cairo and in Alexandria, Egypt, from February 10 to 13, 2002.

[English]

### THE HALIFAX GAZETTE

NOTICE OF MOTION IN CELEBRATION OF  
THE TWO HUNDRED FIFTIETH ANNIVERSARY

**Hon. B. Alasdair Graham:** Honourable senators, I give notice that on Tuesday next, March 19, 2002, I will move:

That the Senate of Canada celebrates with all Canadians the 250th anniversary of Canada's first published newspaper, the *Halifax Gazette*, the publication of which, on March 23, 1752, marked the beginning of the newspaper industry in Canada, which contributes so much to Canada's strong and enduring democratic traditions.

[Translation]

### FISHERIES

NOTICE OF MOTION TO AUTHORIZE COMMITTEE  
TO STUDY MATTERS RELATING TO OCEANS AND FISHERIES

**Hon. Gerald J. Comeau:** Honourable senators, I give notice that on Tuesday next, March 19, 2002, I will move:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to oceans and fisheries;

That the papers and evidence received and taken on the subject during the First Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee submit its final report no later than June 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

**Hon. W. David Angus:** Honourable senators, I am troubled — and I think we all should be — about what appears to be an increasingly chilled atmosphere between Canada and our good neighbour to the south, our number one trading partner. Whether it has to do with matters of security on our internationally acclaimed, for so many years, unprotected border or with security in our ports, the role of our forces in Afghanistan, or whatever, there seems to be a chilling of relations between our two countries. We hear rumblings about our position on the Zimbabwe general election and on what we might do with respect to Iraq. We do not seem to be in step with our most important ally, and it has now broken out into the open.

We read now, in the domestic and the international press, that Mr. Chrétien, perhaps, by his acts, may be contributing to this chilling of relations. Yesterday, we read in the press that White House officials have a nickname for our Prime Minister that says something about these less than warm relations to which I just referred. They call him "Dino the dinosaur." As a Canadian, I am deeply troubled by this situation. It has now broken out into the open.

My question to the Leader of the Government in the Senate is as follows: When will the government make a clear and unequivocal statement of support for our best friend, neighbour and biggest trading partner?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I wish to disassociate myself from every single thing the honourable senator has had to say.

**Some Hon. Senators:** Hear, hear!

**Senator Carstairs:** If we want to talk about our relationship with the United States, what could better indicate it than to learn that, at the present moment, the Prime Minister of Canada and the President of the United States are meeting? They are meeting on issues of mutual concern to us.

**Some Hon. Senators:** Hear, hear!

• (1350)

**Senator Carstairs:** What can we say about a chilling atmosphere when we are, together with our United States neighbours, participating in a war on terror in Afghanistan?

**Some Hon. Senators:** Hear, hear!

**Senator Carstairs:** What more can we say about that chilling atmosphere when we signed an agreement just this week about the security of our ports and about using joint customs officials to inspect containers within those ports in Canada?



I would say that our relationship with the United States is very positive, one that should continue to be positive.

**Some Hon. Senators:** Hear, hear!

**Senator Carstairs:** Honourable senators, does that mean that we will always agree with everything the United States says and does? The answer is no. We are a sovereign nation, and we will continue to be a sovereign nation.

**Some Hon. Senators:** Hear, hear!

**Senator Angus:** I thank the Leader of the Government for that statement, which is substantially less than unequivocal; but where is this meeting between the Prime Minister and the President of the United States taking place today? One senator suggested it could be in a museum where the other dinosaurs are housed. I do not know where it is taking place, but I know it is not taking place at the family ranch of the President of the United States where the President of Russia, other world leaders and all the leaders of the OECD countries are invited, but not our Prime Minister, who is regarded as a second-class citizen these days. I am troubled — and we all should be — about what is going on.

I was asking questions earlier this week about the report of the Standing Senate Committee on National Security and Defence, which talks about the need to do something. I asked the Leader of the Government, and we are told we will hear more later. However, now there is more news on that score. The Americans will send port agents to help with customs policing and security in the ports, but they will be forced not to use their guns. When they do the same work in U.S. ports, they carry firearms.

Honourable senators, when will we get into step with our friends to the south and help on these security matters instead of hindering them? When will we have marshals on airplanes and when will we cooperate in the international effort to combat terrorism instead of putting a monkey wrench into the spokes all the time?

**Senator Carstairs:** I cannot tell the honourable senator the exact place of the meeting this afternoon. However, I suspect it is in the Oval Room, which is the Office of the President of the United States. That is exactly where meetings should take place between two heads of two important and significant countries in the world. They do not need to take place on Texas ranches. They do not need to take place on shipping vessels. They need to take place where business is conducted. I do not know where Senator Angus conducts his business, but I conduct my business in my office, and I expect that the President of the United States and the Prime Minister of this country conduct their business in their offices.

**Some Hon. Senators:** Hear, hear!

**Hon. Terry Stratton:** Honourable senators, I see that the Leader of the Government in the Senate is fully primed this afternoon, and that is good to see so that the students in the audience can appreciate her performance.

I am somewhat concerned about the sovereignty issue. All of a sudden, Canada is giving up sovereignty. Why is that? One reads it and finds it difficult to believe. As Senator Angus said, U.S. Customs agents will take up posts in Canadian ports. What is going on? Why can we not inspect our own ports? Why must we have the help of U.S. Customs? Where is the sovereignty in this whole issue? Why is it suddenly a case of, "Here, come on in. Take over, guys. Run our ports for us."

**Senator Robichaud:** That is what Senator Angus wanted to do.

**Senator Stratton:** If we are concerned about protecting our sovereignty, we are giving it up.

**Senator Carstairs:** To all those wonderful students in the gallery, I hope you think your teacher is performing well. In fact, as an honourable member of the teaching profession — for many years, I taught students in grade 11 and grade 12 — I want them to know that when their teachers move on to other professions, they also perform well in those chosen professions.

I wish I could get some consistency from the other side. Senator Angus stands up and wants us to throw up our sovereignty. We should allow our agents to be armed in Canada as they are armed in the United States. Frankly, as someone who fought hard to see gun control legislation passed in this country, I do not want to see U.S. agents with the same guns in this country as they may use in the United States. That is part of our sovereignty.

As to Senator Stratton's question, I suspect that he, like most of the rest of us, has gone through preclearance. We have, in fact, gone through American customs officials in Canada. We have done that because it is easier for Canadians who are travelling. That is why we do it.

Regarding Senator Stratton's interest with respect to the ports, the reason we are doing this jointly is so that a container moving from Canada to the United States will have to be inspected only once, not twice. It is being done for convenience of trade, something for which I am sure both Senator Stratton and Senator Angus are strong advocates.

**Senator Stratton:** I would only reserve my fire on the question of guns. The Leader of the Government in the Senate raised this question, not I. How much money are we now spending on gun control? The figure is \$689 million. How many policemen have been killed or injured in the last three months in the line of duty, and the honourable leader is telling me that gun control works? Gun control is a laughing stock, and the honourable senator knows that.

**Senator Carstairs:** The honourable senator and I will have to disagree. Fortunately, I am on the side of about 80 per cent of Canadians who also think our good legislation on gun control is a valid way for us to show our sovereignty on issues.



**Hon. Laurier L. LaPierre:** My question is to the Leader of the Government in the Senate. Is she aware that the only President of the United States who did not have angry words with Canada was President Roosevelt toward Prime Minister Mackenzie King? President Kennedy was libellous against Prime Minister Diefenbaker. President Johnson almost choked Prime Minister Pearson. Nasty things were said about Prime Minister Trudeau by the various presidents of the time that I will not repeat because there are young people in the gallery, and I would not wish to offend their virgin ears.

I do not know whether anything nasty was said about Mr. Mulroney, who of course was very friendly with those who sail on Newport Beach and the rest of it.

Finally, I can say, in regard to Texas, that the food is lousy.

**Senator Carstairs:** I do not think Senator LaPierre will be surprised that, as someone who taught Canadian history for 20 years, I am aware of all those exchanges between American presidents and Canadian prime ministers. To me, it is an important part of understanding who we are, that we should never become too cooperative with the United States, too much perceived to be in bed with the United States. My vision of myself as a Canadian was certainly enhanced by the three years I spent living in the United States, at which point I returned to this country with deep gratitude for the sovereign country that it is.

**Some Hon. Senators:** Hear, hear!

## INTERNATIONAL TRADE

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Lowell Murray:** Honourable senators, the subject of Canada-U.S. relations reminds me to ask the Leader of the Government in the Senate a question with regard to the softwood lumber negotiations. Does the government expect that as part of any temporary agreement with the United States that Canada will be required to discontinue the legal processes it has already launched and which on every previous occasion it has won?

• (1400)

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for that question. As he knows, softwood lumber is one of the topics for discussion between the Prime Minister and the President this afternoon. It is my understanding that any agreement that may be reached will not be termed "temporary" — it will be permanent.

**Senator Murray:** Perhaps the wish is father to the thought.

Will the Leader of the Government in the Senate assure us that as part of any agreement — no matter what they call it, temporary or permanent — Canada will not be required to renounce the legal rights that it has begun to exercise on this matter under the various trade agreements?

**Senator Carstairs:** The honourable senator is asking a somewhat hypothetical question in that an agreement has not yet been reached. However, I can assure the honourable senator that I will take his message to the cabinet table.

## CANADA CUSTOMS AND REVENUE AGENCY

### TRAINING OF CUSTOMS OFFICERS

**Hon. Ethel Cochrane:** Honourable senators, my question is for the Leader of the Government in the Senate. In the last few days, various media have reported on staffing and training issues at the Canada Customs and Revenue Agency. In particular, Canadians have been hearing that during peak periods, students are largely responsible for defending our borders.

I will admit that I have read different numbers. The Canadian Press says, "students would make up about 25 per cent of the force when they're on the job." The CBC's *The World at Six* reported last night that, during the summer, almost half the staff working as customs officers are students. Perhaps the Leader of the Government in the Senate can clarify these numbers for me.

Regardless of the numbers, we do know that students receive only two to three weeks of basic training as compared to the nine-week intensive course that officers take in Rigaud, west of Montreal, to become well versed in the 70 federal laws that they are responsible for enforcing. These students are essentially on the job with less than half of the amount of regular training. They are working when regular customs officers and inspectors are on holidays. That is to say, students are working when there are significantly fewer experienced veteran officers on hand and available to provide guidance and support to those students with less training. The union representing Canada Customs officers cited this as a problem.

Officially, the Canada Customs and Revenue Agency has said that the summer replacement program has been around since the 1960s and there has been no cause for alarm. Surely, in the post-September 11 world, this argument is, at best, incredibly weak. To me it is disgraceful. It gives no comfort to us as Canadians.

What is the government doing to ensure that all officers at our border are trained to meet the demands of the job post 9/11?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for her question. As she, too, is a former teacher, I am sure that she would not want her question to be construed as a means of limiting the number of opportunities for young people working for the Government of Canada during the summer.

As to her specific question, yes, students will continue to be hired. They will be given a reduced training period because to give them the full-length training period would encapsulate their entire summer work experience. However, they are also given reduced responsibilities. They are not at work when there are not others in charge who are fully trained as customs officers.

They have no power to enforce offences under the Criminal Code. Once they have identified an individual as having problems related to the Criminal Code, that individual must be turned over to a fully trained customs officer.

**Senator Cochrane:** Honourable senators, it is my understanding that some of these students are on the front line. I would not be supportive of not having our students work. I have stood up and defended our summer students many times. I am rather disappointed that so many of them have not been able to get jobs.

It is my understanding that these students are on the front line. They should have jobs, yes, but perhaps desk work or a similar job where they would not have to make those decisions and where experienced officers would be present should problems, such as terrorist threats, arise. That is not out of the question. It could very well become a problem at our borders.

Following the September 11 attacks, the government set aside \$54 million over six years to hire 300 new officers. In order to meet these targets, the training centre in Rigaud will be required to graduate 700 officers next year. This is a steep increase from previous years when an average of 200 officers graduated. This year, that number doubled to 400 graduates. It will, of course, double again next year to 700.

What changes will be made to adequately train these officers, particularly with regard to training resources? How can we be assured, especially since last September, that our borders are staffed not only with adequate numbers but also with well-trained and well-equipped personnel?

**Senator Carstairs:** As the honourable senator knows, the budget announced in December gave specific dollars for the kind of training development to which she refers. That training development is evolving and is taking place at this moment.

**Hon. Michael A. Meighen:** Honourable senators, my information is that the training period for students is generally about two weeks, whereas the training period for full-time employees is approximately eight weeks. Frankly, I find it difficult to understand that six weeks could make the difference between a fully trained person and a person who is seriously lacking in training, as has often been said with respect to these students. Either the full-time people are not sufficiently trained in six weeks, or the students at two weeks are at least one third as well trained as the full-time employees and should be regarded as such.

Could not the difference of six weeks be made up over the period of a summer's employment by students, or is it the intention to increase the period of training for full-time employees?

**Senator Carstairs:** The amount of training for customs workers is under examination, as is the initiative and training program. What the result of that will be, only time will tell.

As the Honourable Senator Cochrane made reference to students being on the front line, I wish to reiterate that when they put that passport, if you will, into the computer and a problem is identified, they do not deal with the problem. That is why they are not expected to have the same length of training.

**Senator Meighen:** The honourable leader might also consider when reviewing the training program that many customs agents, having benefited from the six weeks of training, are still required to work alone. Having unarmed customs officers — which I agree with, incidentally — working alone at remote posts causes those officers some disquiet, as well as those of us who have had an opportunity to look at the situation.

**Senator Carstairs:** That is a very important question. As the review is being conducted, I will take the honourable senator's message to the minister responsible.

## NATIONAL DEFENCE

### WAR IN AFGHANISTAN—OPERATION HARPOON— REQUEST FOR UPDATE

**Hon. J. Michael Forrestall:** My question is for the Leader of the Government in the Senate. Can the minister update us with regard to how the Princess Patricia battle group is faring in Operation Harpoon?

**Hon. Sharon Carstairs (Leader of the Government):** To answer Senator Forrestall's immediate question — and then I will respond to a question Senator Forrestall asked yesterday — in terms of the operation to date, the only knowledge I have is that things are going well. However, clearly, as I had indicated in a preview yesterday, which I am sure the honourable senator picked up, that this is not an easy task. We have asked. They are in the midst of combat, and we must obviously give them our best thoughts and prayers for their safety.

• (1410)

Yesterday, Senator Forrestall asked a question with respect to benefits. He had asked a similar question on November 7, 2001. We answered that question on November 22, 2001. However, I will repeat it, because it is an important question and other honourable senators may wish to know the answer:

Order in Council P.C. 1989-583 placed all members of the CF Regular Force and Reserve Force on active service when outside of Canada. This Order in Council is still in effect today. Based on legal advice, it was decided to discontinue the practice of issuing operation specific Orders in Council because these would be redundant with the before-mentioned Order in Council.

**Senator Forrestall:** I appreciate that response very much but I must indicate to the minister that, to the best of my knowledge, I did not receive the reply on November 22. It is important, and of course those troops and our families have our prayers.



In regard to transparency and how much information will be available to the public on this campaign, I would ask the minister: Is it the procedure that every morning between 8:30 and 9:00, a senior director of communications from the PMO holds a conference call or has some form of meeting at which the Department of National Defence and Foreign Affairs are told what information they are allowed to release with regard to the war on terror? Does that happen on a fairly regular basis?

**Senator Carstairs:** Honourable senators, I do not know whether there is a daily briefing of that nature. The honourable senator is even more familiar with this file than I am. However, it should be noted that there was a general press conference and press briefing yesterday at 12:30 convened by the Department of National Defence. Those briefings will continue on a regular basis, with the exception of the JTF2 elite troops. We will not, for matters of security, release information about their specific activities.

**Senator Forrestall:** I want to read the minister's reply to that question because transparency is very important. Informing families and Canadians generally is most important at this very critical time.

#### REPLACEMENT OF SEA KING HELICOPTERS—VEHICLE REQUIREMENT SPECIFICATIONS ON FLYING BY INSTRUMENTS

**Hon. J. Michael Forrestall:** Honourable senators, to the Leader of the Government, I wish to return to our favourite sparring subject. The new draft document for the basic vehicle requirement specifications for the maritime helicopter calls for an aircraft in ferry mode to be able to fly for only one hour on its instruments. That means that, when flying on instruments in ferry mode in bad weather, the new maritime helicopter would have difficulties, for example, in flying from Saint John, New Brunswick to Shearwater. That is not very far and somewhat useless. How long would it take to get across the country if you were ferrying from Shearwater to Pat Bay in British Columbia?

Can the minister tell us why there is a drop in the capability for the maritime helicopter? What would happen if they had to ferry a new maritime helicopter, as I have said, from Shearwater out to the West coast or if they had to do it from shipborne areas with the NATO standing fleet?

**Hon. Sharon Carstairs (Leader of the Government):** The Maritime Helicopter Project is certainly a favourite topic between the honourable senator and me. I am somewhat surprised he did not congratulate the Sea Kings for their marvellous performance to date in Operation Apollo. They have been enormously successful and have been given excellent recommendations not only by Canada but also by the United States and our other partners on their performance in various activities.

However, as to Senator Forrestall's specific question about the Maritime Helicopter Project — and I am sure he is delighted that it is coming to a conclusion, as I am, in terms of putting out

[ Senator Forrestall ]

the final offer and making the final decision — I wish to reinforce that the technical specifications of the statement of operational requirements has not changed. It has in no way been watered down.

**Senator Forrestall:** Honourable senators, the requirement now is that the vehicle shall not have to fly more than one hour on instruments. That is a reduction. If it is not, I apologize. I think the minister has given me misinformation or wrong information. I do not accuse her of dreaming up that answer, it has been fed to her.

#### WAR IN AFGHANISTAN—OPERATION APOLLO— REPLACEMENT OF SEA KING HELICOPTER ENGINES

**Hon. J. Michael Forrestall:** Honourable senators, I wish to leave the minister with this question: Can she find out for me today, and I will ask again on Tuesday, how many engines our Sea Kings have gone through so far in Operation Apollo? You can draw your own conclusion as to why I do not raise it every day.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is a shame that Senator Forrestall does not raise the subject every day because it would be a tribute to the Armed Forces who have, under very difficult circumstances, flown planes that we know, and we have always admitted, need to be replaced. There is no question about that. That is why we are going through this whole process. Just as important as those who are in the flight crews, are those in the maintenance crews, who have been maintaining these aircraft at such a heightened ability that they are able to perform so well in operations.

As to the specific request of Senator Forrestall, I do not know if that information is available. However, I shall make an inquiry on his behalf.

**Senator Forrestall:** Honourable senators, it appears on the Web site. If the leader would bother to take a look at it or have someone on her staff look at it, perhaps she could respond to the question.

[Translation]

#### FINANCE

##### INFLUENCE OF COMMENTS BY DEPUTY PRIME MINISTER ON DOLLAR

**Hon. Roch Bolduc:** Honourable senators, I see in the *Ottawa Citizen* today:

[English]

“Manley talks and the dollar drops.”

[Translation]

Does this worry you, Minister?



[English]

the federal government and Ontario and the transfer agreements between the province and its municipalities.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the Deputy Prime Minister indicated exactly the reason why Canada, through its government, has adopted an innovation strategy. It is very clear that we have concerns about our long-term productivity, even though the news out today is quite reassuring. The new labour productivity stats show that it has increased by 2 per cent. However, we still have a long way to go. Yesterday, the currency of Canada did fluctuate, as did every other currency essentially on the international exchange, with the exception of the American dollar.

The deadline originally set by the Court did not take into account the administrative difficulties arising out of the transfer to municipalities of the responsibility for the prosecution of federal and provincial offences.

[Translation]

In a letter to the Deputy Minister of Justice, the Deputy Attorney General of Ontario officially stated Ontario's commitment to continue its efforts to conclude these agreements. Thus, the Department of Justice will present to the Federal Court a motion for an extension of the period that was set by the Court to complete the task.

**Senator Bolduc:** After eight years in power, the government has just said that there will be a new innovation strategy. Minister Manley was Minister of Industry. Why did he not implement it then if it was so important?

The Commissioner of Official Languages and the Association des juristes d'expression française de l'Ontario that were parties to the case were informed of the motion.

[English]

The agreements between the Department of Justice and the cities of Ottawa and Mississauga concerning the processing of parking contraventions in Ontario were amended to comply with the judgement and they are most likely to be signed before March 23, 2002.

**Senator Carstairs:** Quite frankly, the Honourable Allan Rock and the Honourable Brian Tobin both have had the luxury of being able to make such announcements, the plans for which were laid by the Honourable John Manley.

[Translation]

[English]

VISITORS IN THE GALLERY

ORDERS OF THE DAY

**The Hon. the Speaker:** Honourable senators, I wish to draw to your attention the presence in the gallery of the Forum for Young Canadians.

ROYAL ASSENT BILL

[English]

THIRD READING—MOTION IN AMENDMENT—DEBATE ADJOURNED

On behalf of all honourable senators, I welcome you to the Senate of Canada.

On the Order:

**Hon. Senators:** Hear, hear!

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-34, respecting royal assent to bills passed by the Houses of Parliament.

[Translation]

**DELAYED ANSWER TO ORAL QUESTION**

And on the motion in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth that the Bill be not now read a third time but that it be amended in clause 3 by adding the following after subsection 2:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I am pleased to table an answer to a question raised in the Senate on February 19, 2002, by Senator Gauthier, regarding linguistic rights.

3(3). The signification of royal assent by written declaration may be witnessed by more than one member from each House of Parliament.

JUSTICE

Hon. Jeremiah S. Grafstein: Honourable senators, the

FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—INTENTION OF GOVERNMENT

origins of Bill S-34 have a very curious trajectory. Royal Assent, as honourable senators know, has been a discussion for over two decades, and in 1991 a bill was introduced by Senator Lynch-Staunton, Leader of the Opposition in the Senate, with the support of the government. A wide consensus for his proposal was not obtained on both sides. Nevertheless, the government saw fit to reintroduce it as Bill S-34 in October 2001. Bill S-34 is essentially in the same form, ignoring the concerns voiced on both sides of the Senate.

(Response to question raised by Hon. Jean-Robert Gauthier on February 19, 2002)

In spite of the Department of Justice's efforts, it will not be possible to amend in time and in accordance with the requirements set in the judgement, the agreement between

Bill S-34 underwent a thorough review by the Standing Senate Committee on Rules, Procedures and the Rights of Parliament. The committee benefitted from the views of all committee members, as well as the views of Mr. John Aimers of the Monarchist League of Canada and Professor David Smith of the University of Saskatchewan. I tabled a number of draft amendments to provoke a full debate to illustrate the ceremony that lays at the core of our Constitution, the Royal Assent — the “holy trilogy” of the Crown, the Commons and the Senate coming together.

However, in his response to the bill as amended by the committee, replete with innovation and stage directions, Senator Lynch-Staunton said:

I am astounded by the number of witnesses and the number of colleagues who resisted so strenuously this very modest addition to an existing ceremony, which, by itself, with all due respect to the constitutional obligation, is meaningless.

Obviously, a review of Professor Smith’s remarkable evidence before the committee, echoing the great constitutional scholar of Professor W. P. M. Kennedy, that the Royal Assent is the conclusion of the building-up of law to various rulings and detailed discussions in the committee is necessary to inform all senators about the origins and the background of Royal Assent. Professor Smith testified: “The Crown is not an ornament, but the core of Canada’s parliamentary democracy. In and through Parliament, it embodies the values that unite Canadians.”

Concerning Royal Assent, he continued to explain the real sense that encapsulates the Queen in Parliament, which, he said: “...personifies the nation, the Senate, which embodies the federal principle, and the Commons, which represents the people through their representatives.”

Professor Smith laid out the distinct constitutional differences that the Crown plays in Canada compared to Britain or Australia. He said:

Canada is a federation composed of provinces but possessing two official languages, official multicultural and the Aboriginal dimension. Parliament functioning in all its parts (the Queen in Canada) and the Senate representing the regions, reminds Canadians of the fundamental structure of the Constitution. To renovate the Royal Assent ceremony, as originally proposed by the Government in Bill S-34, would submerge both the Governor General and the Senate.

Honourable senators, I draw your attention to two important recommendations in the committee report that were unanimously adopted by both the committee and the Senate:

Your committee is of the opinion that the presence of both the Governor General and the Prime Minister for Royal Assent on those occasions where a customary ceremony is held in the Senate Chamber are elements in demonstrating to the Canadian public the paramount purpose of Parliament

in these law-making functions and the public expression of the Constitution in Canada, wherein the participation of the Queen and the two Houses of Parliament are conditions precedent to the making of the laws of Canada.

The committee also stated that it believes that members of the Senate should recognize the importance of their presence in enhancing the Crown in Parliament as well as their role as representatives of Canadians in the legislative process.

To deal with the question of public education, paragraph five of the report recommends:

To further enhance Royal Assent, your committee believes that customary ceremony of the Royal Assent should be televised and made available to be broadcast on television and the Internet.

Honourable senators, the report concludes with this recommendation from paragraph 9:

Since the granting of Royal Assent is designed in part to give the public notice of a new law passed by Parliament, initiatives are essential to enhance public knowledge of the significance and substance of the bills being assented to by developing public education and communication strategies in order to educate the public. The Senate should ensure that the broadcast production of Royal Assent ceremonies include appropriate educational and informational segments about the bills being assented to.

Appended to the report, honourable senators, is an important letter to the chairman of the committee by the House Leader of the Commons, the Honourable Ralph Goodale, and the Leader of the Government in the Senate, the Honourable Senator Carstairs. I draw your attention to two paragraphs from that letter:

The government shares the committee’s views that the Royal Assent ceremony is an important tradition of Parliament and that measures should be taken to ensure that it remains a key part of the legislative process.

The letter goes on to state:

The government would also support any decision by the Senate to televise scheduled Royal Assent ceremonies. Such a decision would serve to improve public awareness of both the processes and the institutions of Parliament.

The government agrees with the very interesting and innovative stage directions approved by your committee and by the Senate.

Honourable senators, after extensive deliberation by your committee, we have a renovated Royal Assent bill that will provide a Royal Assent process that is new and improved, with at least two full public ceremonies each year that would be televised. This will give members of Parliament in the Commons and the Senate a unique opportunity to explain their work and the essence of the legislation they have passed. That will serve to



enhance the understanding of the public, not only about the role of the Queen in Parliament or the Crown in Parliament, the Commons and the Senate, but also about the essence and substance of important matters of legislation that are rarely reported or fully explained otherwise in the media. These agreed stage directions will enhance public education about Parliament, the Senate and its law-making function.

Honourable senators, my modest amendment would ensure that the non-ceremonial Royal Assent would have a permissive modicum of parliamentary approbation by attendance of members of Parliament at any non-ceremonial ascent.

We should thank Honourable Senator Lynch-Staunton for his efforts to bring Royal Assent and the need for its renovation to the attention of the Senate. Obviously, I disagree with him that Royal Assent is meaningless. Honourable senators, it is not meaningless if it reminds Her Excellency and both Houses of Parliament that the essence, the exercise of sovereignty, lies at the heart of democracy and the adherence to the rule of law under our unique Constitution, which is both measured and meaningful. Hence, a proactive educational process surrounding Royal Assent will match symbolism with reality.

Honourable senators, ignorance of the law is no defence. This is a principle — a canon — of our law. Practice and principles march best when they march together. The Senate will emerge to be seen in its vital yet unheralded role under the Constitution.

Honourable senators, I urge your support for my modest amendment.

On motion of Senator Pépin, for Senator Joyal, debate adjourned.

## CRIMINAL LAW AMENDMENT BILL, 2001

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the third reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended.

**Hon. A. Raynell Andreychuk:** Honourable senators, I rise to speak to Bill C-15A. The Standing Senate Committee on Legal and Constitutional Affairs dealt with the issues in Bill C-15A and I wish to address three of those issues.

The Honourable Anne McLellan, former Minister of Justice, appeared before the committee. She indicated that clause 5(3), dealing with the distribution of child pornography, would be most helpful in our fight against child pornography. In this case, I agree with the minister that we must stop any action that is taken by any individual in Canada to promote, sell, make available or export in any way child pornography, and that we must take this issue seriously.

• (1430)

However, I wish to support the amendment that indicates that while this clause was certainly put in to attract the attention of and to stop those who distribute child pornography, there is a reasonable inference that it could adversely affect those who are custodians of the computer system. In other words, it could be applied to those who provide the means and facilities of telecommunication.

The minister indicated that it was never the intention to trap these people in the definition of "transmission." I want to put on the record that I do not believe that it is good policy or good law to take a minister's intention as something that could override clearly generic words in this subclause. "Transmit" or "provide" each have a meaning of their own. Ministerial intent may be of some value, but it is not helpful without a clarification such as the amendment that was proposed and accepted by the majority of the Standing Senate Committee on Legal and Constitutional Affairs.

The Criminal Code will stand alone when it is applied. It is not just a question of the minister's intent. Once the bill is passed, something as volatile as child pornography will lead prosecutors, police, informed citizens and action groups to look at every means to prosecute and get at child pornographers, as they should. The proposed subsection of the Criminal Code reads, "Every person who transmits, makes available..." We will not be dealing with police, judges, prosecutors or anyone in the justice field who will be as current with the telecommunications concepts as perhaps they should be or they will be in the future.

Honourable senators, many of us in this room do not understand fully the telecommunications systems, nor the responsibility of a provider who simply provides the hardware and who thus must not be held liable for the content. This proposed subsection, which the minister put in the bill without the clarifying amendment, could lead the justice system to come to the conclusion that those who provide the hardware could be held accountable.

Therefore, the amendment is very much needed. It is not good law to simply say that the telecommunications industry knows what it is about. It would not be fair to put the telecommunications industry in the position of having to defend itself. Nor do I think that it is good law to put judges, prosecutors and police at all levels of government across Canada, in small communities and large centres, in the position where they have to make that subtle distinction and where they have to maintain the necessary understanding, which in time will grow as it has in our telephone companies. Therefore, the amendment was warranted and is warranted.

In no way does the amendment that we made allow any transmitter of pornography to get off if they are perpetrating child pornography. If they are well aware of the content inside the equipment or if they are outright perpetrators, they will be trapped under the proposed subsection that addresses knowingly transmitting pornographic material. The added amendment simply ensures that by virtue of providing merely the hardware a person would not be classed as a perpetrator.



Honourable senators, this is a highly volatile field. I believe that an incident of child pornography and the outrage that accompanies it could drive people to seek that charges be laid as quickly as possible. Therefore, the clarification is warranted and the amendment is warranted.

I wish to turn to another area of concern. That is the area of whether there should be an independent commission or whether the amendments within the bill are sufficient to address those who are wrongfully convicted.

We have had ministerial discretion in our system for some time to allow, after all appeals have been exhausted, an appeal to the minister to examine a situation and to determine whether someone, despite the law being applied to that person, is nonetheless innocent after being found guilty according to the law. The minister was well aware when she came before the committee that there have been many cases of wrongful conviction despite the system doing its best.

We know that we are in a system that is evolving and consequently errors can occur. Despite the best efforts of the people in the system, these errors have led to convictions of people who are innocent.

The minister would not yield to having an independent commission such as the one the British have put in place. Many experts are heralding the British system as the way to go after much study. I believe many of those experts are in Canada.

I wish to refer to the two witnesses who were the best in my opinion of those who appeared before the committee. Mr. Melvyn Green is a board member of the Association in Defence of the Wrongly Convicted, and Ms Dianne Martin is a professor with the Innocence Project of Osgoode Hall Law School.

Both of these witnesses have conducted projects that have looked at countless cases of the wrongfully convicted. Their assessment was that we should hold off for the time being because there are some independent inquiries under way that could yield good information for us as to how to structure this bill. The minister did not seem to wish to wait.

Second, these two witnesses very much support an independent commission. The minister did not. I wish to refer to Ms Dianne Martin's testimony. She said before the committee:

The assumption that the convictions of murder cases are always sound, correct and remedied, when errors occur, at an appeal level, is simply false.

The more troubling assumption that was offered with great sincerity by the minister today, namely, that her ministry catches the rest, is the worst fallacy. This has been studied more than once in Canada. I participated in a review of more than 100 cases on wrongful conviction and analyzed them for the Kaufman Inquiry. We identified common causes and common errors that police officers

make. We are the same as England. Noble cause, corruption, the ends justify the means as we rush to judgement to resolve a terrible crime, which we call a recipe for wrongful conviction, occur identically here, as they do in Great Britain.

Our system, under section 690, has also been studied. A graduate student that I am working with at Simon Fraser University has analyzed records of section 690 dating back 90 years. It is an appalling record because it is not catching the cases of true injustice. It is a record of trying to throw them out.

Ms Martin continues:

From that perspective, you would not at all be surprised that the kind of conclusions that royal commissions have come to in Canada, the commissions of inquiry have come to in the United Kingdom, that a variety of institutions in the United States have come to, and similar bodies in Australia have come to, is that we do not get it right all the time. It is not because of errors of law; it is because we do not get it right.

You cannot start in an adversarial stance. That is one of my three points of great disagreement with the proposition that we can fix the problem by tinkering —

— that was her assessment of what we are doing with the amendments, tinkering —

— with the appearance of section 690 by making it available to offences with the maximum imprisonment of six months...

Ms Martin continues:

You do not fix this problem with window dressing and procedural technicalities such as "Now we make the form public."

You fix it by removing it from someone whose job it is to enforce the law. I want a Minister of Justice who stands up for our system of justice; it is a wonderful system — no better than other country's where the same problem exists, but far better than many in the world. I want her to stand up for our system of justice, but I do not want her to pretend to turn herself inside out and take the position of doing justice rather mercy.

● (1440)

You heard the minister. She views the task of remedying the conviction of an innocent person as an act of mercy. It is surely not an act of mercy; it is an act and a need of fundamental justice. Justice must always be fair, objective and neutral. It must start at neutral.

Therefore, the standpoint is the fatal flaw.

Honourable senators, as the person who has probably spent more time looking at wrongful convictions than anyone else in Canada, Professor Martin's position is that the minister cannot be part of the system in which she judges herself and that justice system. Justice has to be seen to be done and it deserves a neutral reassessment. Therefore, an independent commission is the way to proceed.

My submission, honourable senators, is that we pass this bill with our technical amendments, including that of Senator Joyal, who believes it would be helpful to have retired judges assisting the minister. I do not believe that this is good enough. I believe that it should be not only judges, retired lawyers and those in the justice field who assist the minister, but also the public at large, whose common sense and intelligence should also prevail. However, even that addition falls short of the test of being totally neutral.

Until such time as we in Canada have an independent commission, we will not have a fair and just system for those who have been wrongfully convicted. Honourable senators need only look at the cases of *Marshall* and *Milgaard*. I do not believe that the justice system failed, *per se*, because we do have one of the best systems. However, we are dealing with human beings in this system and, therefore, the only way to ensure that fundamental justice is done is to have a neutral system with an independent commission.

I am most disappointed that we have not seen in the previous minister, or in the new minister, a willingness to proceed as far as the British and Australian systems. Until that happens, we have cause for concern that there will be more Milgaards and Marshalls in our system, bringing further disrepute to our justice system.

I rise to speak today because the justice system, particularly in Saskatchewan, has come under increased scrutiny by the citizens at large and particularly by the Aboriginal community. I very much defend and support the Saskatchewan system because it works fairly. However, it is necessary for that system to improve and overcome its difficulties. It can only do so if there are independent inquiries and commissions.

Until we begin to look at independent scrutiny of the justice system, and the system can withstand that kind of scrutiny, we will have detractors of the system, rather than supporters.

I wanted my comments on the record. I would appeal to the government and the new minister to rethink the premise that Bill C-15A is only the start of a process. Our justice system will continue to be fundamentally flawed until such time as we truly consider an independent review process.

On motion of Senator Cools, debate adjourned

## FOREIGN MISSIONS AND INTERNATIONAL ORGANIZATIONS ACT

### BILL TO AMEND—THIRD READING

**Hon. B. Alasdair Graham** moved the third reading of Bill C-35, to amend the Foreign Missions and International Organizations Act.

He said: Honourable senators, I am pleased to address the Senate today on Bill C-35, which amends the Foreign Missions and International Organizations Act.

The Standing Senate Committee on Foreign Affairs has completed a thorough review of this initiative and adopted the bill without amendment. The Foreign Missions and International Organizations Act, first enacted by Parliament in 1991, provides for the special legal status in Canada of representatives of foreign states and international organizations. It implements the Vienna conventions on diplomatic and consular relations and the Convention on the Privileges and Immunities of the United Nations in Canada.

These are the international conventions intended to advance bilateral and multilateral discourse between countries by providing for a regime of privileges and immunities that enable state representatives to defend and protect their countries' interests without fear of retribution or persecution.

During its examination of Bill C-35, the Foreign Affairs Committee had the opportunity to discuss the proposals with the Minister of Foreign Affairs, who emphasized the importance of modernizing this legislation at the present time when it is imperative that our nation demonstrate leadership in the international arena on issues that are of major importance both to Canada and Canadians.

I agree with the minister that Canada has been and must continue to be a leader in the process to develop solutions to endemic world problems. Multilateralism remains the key to addressing many of these global phenomena, whether it is poverty, terrorism and transnational crime, environmental degradation or human and international security.

The main proposals in this bill permit Canada to play a leading role in international, multilateral diplomacy, to fulfil its obligations in hosting the upcoming G8 summit, and to continue to present Canada as a prime location for the establishment of head offices of international governmental organizations.

Honourable senators, in the present legislation, the legislative definition of an "international organization" has been interpreted to permit orders to be made under the act only for international organizations created by treaty, such as the United Nations. This bill ensures that we can treat important meetings such as the G8 in the same manner as we treat international organizations such as the United Nations and the International Civil Aviation Organization, ICAO.



This amendment to the definition of international organizations is necessary because, in modern diplomatic practice, important governmental, international and multilateral matters are increasingly dealt with at international conferences by international organizations which are not necessarily created by treaty, such as the G8 or the Organization for Security and Cooperation in Europe, OSCE.

Another proposal of the bill provides a statutory base for the secure functioning of international governmental conferences held in Canada. The proposal will provide the police with clear statutory authority to provide the necessary security measures at the upcoming G8 summit in Kananaskis, Alberta.

As well, by granting the required immunity to international inspectors who come to ensure that Canada is respecting its commitments in relation to chemical weapons or nuclear test bans, the government is enabling Canada to comply with the Chemical Weapons Convention and the agreement with the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization.

In a further proposal, the bill recognizes permanent missions accredited to international organizations in Canada by granting them tax privileges corresponding to their status. It is worth noting that more than 40 missions are accredited with the International Civil Aviation Organization, ICAO, without having access to the privileges they should have. Bill C-35 corrects this anomaly.

Finally, Bill C-35 will clarify that the Order in Council for an international organization or meeting excludes the obligation to issue a minister's permit to allow entry to Canada of a person who falls within the inadmissible classes under the Immigration Act.

• (14:50)

I assure all honourable senators that this amendment does not eliminate the careful screening process put in place by the Departments of Foreign Affairs, Citizenship and Immigration, the RCMP and CSIS for foreign delegations attending international conferences in Canada. An Order in Council for international organizations and their meetings provides for immunity from immigration restrictions, not from immigration formalities.

However, this change means that when a foreign leader such as Nelson Mandela, for example, comes to Canada for an international conference covered by an order under this act, he will no longer require a minister's permit to enter into Canada because he is technically inadmissible due to his criminal record.

Honourable senators, the Foreign Affairs Committee has benefited in its deliberations from the arguments put forward by witnesses representing Amnesty International. The representatives of Amnesty are concerned that granting immunity to non-treaty-based international organizations and their

meetings will create a climate of impunity for state leaders alleged to have committed war crimes or crimes against humanity.

Parliament has clearly provided, through its enactment of the Crimes against Humanity and War Crimes Act, that no one may claim immunity from arrest or extradition in Canada if they are subject to a request for surrender by the International Criminal Court or a tribunal treated by a United Nations Security Council resolution named in the schedule to the Extradition Act, currently the international criminal tribunals for the former Yugoslavia and Rwanda.

To this end, section 48 of the War Crimes and Crimes Against Humanity Act overrides an order made under the Foreign Missions and International Organizations Act. Section 48 states:

Despite any other Act or law, no person who is the subject of a request for surrender by the International Criminal Court or by any international criminal tribunal that is established by resolution of the Security Council of the United Nations and whose name appears in the schedule, may claim immunity under common law or by statute from arrest or extradition under this Act.

I wholeheartedly agree with the position of the Amnesty International witnesses who insist that Canada maintain its vigilance in respecting the human rights standards that we set for ourselves and for the international community. Canada makes a vital contribution to the development of international human rights standards, standards that we strive conscientiously to adhere to at home and on the world stage.

The passage of this bill clearly advances this goal by creating the appropriate mechanisms for the proper functioning of non-treaty-based international organizations. It further contemplates the possibility that occasions may arise when, in the interests of promoting justice and peace in the international arena, it is necessary for Canada to dialogue with representatives of regimes alleged to have behaved in a manner inconsistent with international human rights norms.

Honourable senators, the Foreign Affairs Committee paid close attention to the concerns of Mr. Borovoy from the Canadian Civil Liberties Association. He raised concerns about the scope of police powers provided for in the bill in order to ensure the secure functioning of international governmental conferences held in Canada.

I am pleased with the response provided by the government on this issue. The responses that we have received show that this proposal clarifies in statute the responsibility of the police to enable the proper functioning of international meetings. They also show that it has been carefully drafted in light of the common law and statutory duties conferred on the police to keep the peace, to protect persons, including internationally protected persons, from harm and to protect persons engaged in lawful demonstration from unlawful interference.



Indeed, this proposal does not alter the fact that any security measures taken by the police will be subject to Charter scrutiny and must be justified as reasonable in the circumstances. In other words, any police measure that limits a Charter right, for example, the freedom of expression or the freedom of assembly, must be justifiable in a free and democratic society. The right to peaceful protest is a vital part of the functioning of Canadian democracy. The proposal is designed to protect that right while ensuring that Canada can continue to successfully host these important international events.

I conclude my remarks, honourable senators, by emphasizing that the clear purpose of Bill C-35 is to modernize the Foreign Missions and International Organizations Act. It has been proposed in order to ensure Canada's success in hosting important international conferences.

This bill recognizes international organizations such as the Organization for Security and Co-operation in Europe, the G8, the G20 and other international organizations that are not treaty-based and, as a result, are not currently covered by the Foreign Missions and International Organizations Act.

This bill also proposes to create a safe environment for the functioning of the diplomatic process within international meetings and organizations. Certainly this is a timely and important bill, given the fact that Canada is hosting the G8 summit in Alberta in just a few months, and it is vital to have this bill in place in order to provide just that kind of safety and security.

I thank all honourable senators who participated in the discussions on this bill and who will continue to participate in the debate, and most especially I wish to thank the witnesses who appeared before the Standing Senate Committee on Foreign Affairs to express their views.

**Hon. Eymard G. Corbin:** Honourable senators, Bill C-35, to amend the Foreign Missions and International Organizations Act, proposes additions to the privileges and immunities regime of the existing legislation. It also grants extraordinarily unlimited policing powers that aim to ensure greater security when international organizations hold high-level meetings in Canada.

Clause 5, which grants these powers, is a big problem. In these times of mourning, but also of hysterical overreaction that is not seeming to wane, it effectively sets the stage for drastically containing the public's democratic right to protest.

Before I proceed, let me be clear: I am unequivocally opposed to any kind of violent protest. When I refer in my remarks to the right of protest, I am implying that that protest is peaceful. Given the potential granted by this bill for discretionary encroachment on the right of protest that will result in unfettered police discretion, I am of the opinion that this separate concern should have been the subject of an altogether distinct bill with an

in-depth examination of its implications. But no: hurry, push, rush. Who cares?

This additional instance of new police powers signifies to me that the time has come for a consolidation bill spelling out the various powers that Parliament is prepared to recognize for the federal police force and those associated with them in given circumstances.

Clause 5 authorizes the RCMP to take "appropriate measures to the extent and in a manner that is reasonable under the circumstances" to ensure security at international get-togethers. This kind of unfettered discretion in the hands of police can potentially sin against the democratic right of peaceful protest for two reasons. First, there is an inherent conflict of interest in allowing police to improvise their own enforcement initiatives. Remember Vancouver. Second, and more important, the right to protest is jeopardized. Intimidation and hyper behaviour by police must not be tolerated when it tends to want to deter protest even before it begins.

• (15:00)

The role of police is to enforce orders, not to make them up. The government, on the advice and approval of Parliament, is ultimately responsible for implementing policy and for deciding what is reasonable, not the police, and certainly not the courts after the fact. It is, in my opinion, extremely risky to delegate powers that are tantamount to police creating policy in an ad hoc manner under pressure to suit their assessment of events, of individuals, of groups, of actions based on their subjective evaluation. "Repress now, explain later" is not reassuring in any context.

Honourable senators, the right to protest is paramount. It is a measure of the health of our democracy. Clause 5 of the bill quietly validates the crazy notion that all protest is unworthy, suspicious and potentially dangerous. The Charter guarantees the freedoms of expression, peaceful assembly and association, subject to such reasonable — there is that word again, "reasonable" — limits prescribed by law that can be demonstrably justified in a free and democratic society.

What good are these guarantees if, when they are put to the test, they are bound to fail because of the excessive use of intimidation and force? There is supposed to be a balance between these freedoms and what is necessary, reasonable and proportionate in the circumstances. How can a balance be achieved if the subjective assessment of what is necessary, reasonable and proportionate in any given circumstance is completely entrusted with police, who have a competing interest vis-à-vis the protesters? The police must be restrained in the exercise of the kind of discretion they are given. The bill, as it now reads, does not do that.

Alex Neve, the Secretary-General of the Canadian Section for Amnesty International, concurs. In answer to a question I put to him in committee, he answered:

Although we have focused on the sections dealing with immunity, the section dealing with the security of intergovernmental conferences did not escape our notice. We are an organization that does demonstrate. We are an organization that is committed to peaceful protest. We would never allow or encourage our own members to engage in any non-peaceful protest and speak out, criticize and condemn acts of violence by others in any form of protest.

At the same time, we also have over the years, in connection with a number of protests associated with conferences of this sort —

— the sort that the bill deals with —

— made recommendations to government, police forces and security agencies about the importance of adopting policing responses to the demonstrations that take place at these conferences, which are wholly consistent with international human rights standards and which do adequately protect the right to peaceful protest. This right is protected both in the sense of protecting peaceful protest from the non-peaceful protest because there can be that concern but also ensuring that the peaceful protesters are not unduly limited in their right to protest by police forces.

This section clearly gives a wide power to the RCMP, in particular, to take any “appropriate measures, including controlling, limiting or prohibiting access to any area to the extent and in a manner that is reasonable —

— there is that word again —

— in the circumstances.”

That is a provision that we will watch closely as it is applied in connection with international conferences here in Canada. If I were to make a recommendation, it would be for some language to be included in that provision which makes it clear that international human rights standards must be part of understanding what is reasonable in the circumstances.

Honourable senators, the right to protest is as fragile as it is fundamental. In this age of political opportunism, protest is often dismissed or even mocked as an activity for fanatics or weirdos. In reality, protest is the most important and sometimes the ultimate opportunity for ordinary but caring people to express their dissent. The quality and consistency of our democracy is imperilled when protest is intimidated or suffocated. For these reasons clause 5 of Bill C-35 leaves me wondering and unsatisfied, but I have spoken my mind.

Honourable senators, I predict that we will revisit these issues. I would add that the new and controversial initiatives taken by the government under this bill are highly problematic. They pose grave moral challenges for well-thinking people who spend all their lives working toward greater justice for all. The bill may be high diplomacy for some, but it does not gather my support.

[ Senator Corbin ]

**Hon. Terry Stratton:** Honourable senators, I should like to adjourn the debate in my name, recognizing that while I agreed to have Senator Corbin speak and recognizing that the second speaker normally is given 45 minutes, the opposition reserves the right, with the agreement of honourable senators, to speak for 45 minutes on this issue, should it choose to do so.

**The Hon. the Speaker:** Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

• (1510)

[Translation]

## OFFICIAL LANGUAGES

### SEVENTH REPORT OF JOINT COMMITTEE—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Callbeck, for the adoption of the Seventh Report of the Standing Joint Committee on Official Languages entitled: *Good intentions are not enough*, tabled in the Senate on February 21, 2002.

**Hon. Shirley Maheu:** Honourable senators, I am proud to rise today to speak to the tabling of the seventh report of the Standing Joint Committee on Official Languages on the services offered by Air Canada, entitled *Good intentions are not enough*.

I was part of the Canadian delegation to a NATO meeting and, unfortunately, I was unable to table this report on February 21. Fortunately, Senator Gauthier was happy to table it on my behalf.

[English]

During the 10 months that preceded the tabling of this report, the Standing Joint Committee on Official Languages carried out an exhaustive study of Air Canada's case. As is mentioned in the report, many Official Languages Commissioners have already noted that Air Canada faces major obstacles to full compliance with the Official Languages Act.

Following its 1998 privatization, it is evident that Air Canada and its subsidiaries have not performed well in the area of official languages. I would go so far as to say that the non-compliance of Air Canada dates back even further, when the Canadian government was not overly exacting or demanding on this issue. Even after a major review of the legislation, as well as a review of the small percentage of francophone staff members and of the relatively high number of complaints, the situation did not improve over the years.



[Translation]

The Committee concluded that Air Canada needs to make greater efforts to respect both official languages of our country. To that end, its report included sections on a presentation of the organization, historical background, linguistic obligations, evidence, observations and recommendations. Our committee made 16 such recommendations. Then there were questions for the government, and several appendixes where we had the possibility of including dissenting reports.

[English]

I would like to add that the pursued objective of the joint committee was to improve Air Canada's client satisfaction. Therefore, our mandate was to help Air Canada improve their service delivery by asking the government to clarify certain laws applicable to Air Canada and its subsidiaries.

Meanwhile, Air Canada's President and CEO, Mr. Robert Milton, seems very concerned about the company's current situation, and I am confident that he will take this occasion to improve the linguistic problem and, hopefully, ensure that Air Canada's services are provided in French and English at all times.

Finally, I would like to address one of the concerns Senator Gauthier addressed in his speech of March 7 of this year. Senator Gauthier suggested:

The normal, logical process that should be followed when a committee of the Senate or a joint committee of the House and Senate makes a report is that we should receive a comprehensive answer from the government as to what it thinks about the proposals given to it.

I understand Senator Gauthier's statement that we should have this kind of procedure. In fact, the Standing Joint Committee on Official Languages has asked, on page 53, that a government response be given to this report.

On motion of Senator Robichaud, debate adjourned.

[Translation]

SEVENTH REPORT OF JOINT COMMITTEE—MOTION TO SEND MESSAGE TO HOUSE OF COMMONS OBJECTING TO UNILATERAL APPENDING OF DISSENTING OPINION—DEBATE CONTINUED

On the Order:

Resuming debate on the motion by Senator Gauthier, seconded by Senator Lapointe,

That a Message be sent to the House of Commons objecting to its decision of February 21, 2002 to append unilaterally a dissenting opinion to the Seventh Report on Official Languages, and thus ignore the legitimate rights of the Senate in a matter relating to a Joint Committee.

**Hon. Shirley Maheu:** Honourable senators, in response to the motion by Senator Jean-Robert Gauthier, that a message be sent to the House of Commons objecting to its decision of February 21, 2002 to append unilaterally a dissenting opinion to the Seventh Report on Official Languages, and thus ignore the legitimate rights of the Senate in a matter relating to a Joint Committee, I wish to make a few clarifications.

Obviously Senator Gauthier is raising a basic problem affecting the rules relating to Joint Senate and House of Commons committees. The House of Commons has a rule, rule 108(1)(a). The Senate has nothing similar authorizing the said Chamber to accept a dissenting report. A number of senators have already discussed this problem. For example, Senators MacEachen and Gauthier, in November 1994, pointed out this breach of our rules and procedures.

As you can see in Document No. 1 that I have distributed to you, rule 90 of the *Rules of the Senate* does not make any reference to dissenting opinions. This suggests that it is perfectly possible to also include reports to the Senate. In other words, it implies that if something is not prohibited by the rules and procedures of the Senate, we can make use of it. Again, I refer you to specific examples where dissenting reports were accepted in the Senate. It is Document No. 9, I mentioned four reports. I stress the term "reports," because while an opinion is expressed in a few paragraphs, a report has several pages.

[English]

As far as I am concerned, this is not a new problem and, unfortunately, it has never been totally resolved.

Senator Gauthier added in his speech that this dissenting report was neither discussed by the Standing Joint Committee on Official Languages nor included in the Official Languages report by Mr. Bélanger in the House of Commons or by himself in the Senate. The possibility of accepting a dissenting opinion was indeed discussed and accepted by the committee on February 18, 2002.

In the Minutes of Proceedings, the committee included:

Pursuant to Standing Order 108(1)(a), the Committee authorizes the printing of the dissenting or supplementary opinions by Committee members as an appendix to this report immediately after the signature of the Co-Chairs, that the dissenting or supplementary opinions be sent to the Co-Clerk of the House of Commons, in both official languages, on/or before Tuesday, February 19, 2002 at 5:00 p.m.

I would like to point out that Reid's dissident report was presented and then accepted for tabling in the House of Commons. The word "annexed" was never used. Consequently, the report, as submitted by MP Bélanger and Senator Gauthier, included only one dissenting opinion, that being from MP Godin.



The table officers or the Journals department, for some reason, decided to append or, in French, "annexer" Reid's report. The Speaker of the House is now looking at this issue to see how the word "annexer" or "append" came to be used rather than "table" or "present."

When Mr. Reid talked about his dissenting opinion, he advised that the airplane he was sitting in had an electrical fire. Consequently, his flight was delayed and that is the reason he could not submit his dissenting report on time. I feel this is an extenuating circumstance.

• (1520)

While it is true that the Official Languages Committee did not authorize the dissenting report on February 21, the House of Commons, which is the master of its own decisions, decided to accept it unanimously. I suppose Scott Reid did not know that, before even attempting this, he should have come to the Senate.

In any event, when he tried to present his report it was noted that it was not translated. Since translations are absolutely necessary, he had to wait until February 21, when both were done.

[Translation]

Senator Gauthier says that the House of Commons exceeded its authority by unilaterally agreeing to append Mr. Reid's dissenting opinion. I say that the House of Commons, like the Senate, can do whatever it wants, with unanimous consent.

In light of all these allegations, I can affirm with certainty that the Standing Joint Committee on Official Languages has neither the authority nor the legitimacy to change the rules and procedures of the House of Commons or of the Senate. The existing rules are not perfect, but they are what they are.

[English]

In my opinion, sending a message to the House of Commons would appear inappropriate, for the reasons that I have just enumerated. I strongly suggest that we do not send such a message.

I thank honourable senators for their attention.

**The Hon. the Speaker:** Will the Honourable Senator Maheu respond to a question of the Honourable Senator Gauthier?

**Senator Maheu:** Yes.

**Hon. Jean-Robert Gauthier:** Honourable senators, I do not want to pursue this debate indefinitely. However, I think that certain points should be answered. Mr. Reid, a member of the other House, is not the lone member of the Alliance Party. If he was unable to be in attendance in the House of Commons on February 18, when the report was accepted, and he himself admitted that he had been delayed, surely, then, another member of his party could have acted for him. He even read into the record the date and the hour, which was February 19 at 5 p.m., at

which time neither a report nor a dissenting opinion would be accepted.

Is the honourable senator aware that Mr. Reid read that into the record and that, indeed, he was wrong? That he was delayed does not enter into any consideration. The report was not tabled at the appropriate time. However, let us leave that matter aside.

Senator Maheu said that what is not within the rules should be acceptable. I beg to differ. If it is not in the rules, then it cannot be done. I would quote from *Beauchesne's Parliamentary Rules and Forms* which states:

[Translation]

If a member does not approve certain parts of a report, or the whole report, he may record his opposition through a recorded division on those parts of the report, or on the whole report, as the case may be.

[English]

Honourable senators will find the same rule in the *Companion to the Rules of the Senate of Canada*. There is a big difference between a minority report and a dissenting opinion. There is no such thing in the Senate. I know the procedure in the other place; I was there for 20 some-odd years. They can do that there. They can table dissenting opinions to a report. I agree with that.

We do not have such a procedure in the Senate. My point to the senator is that the House of Commons unanimously accepted to append, which is written in the *Journals* of that day, and it is on the record.

[Translation]

The *Journals of the House of Commons* indicate that the dissenting opinion was appended to the Seventh Report of the Standing Joint Committee on Official Languages. That is a fact. What I do not like is that the serious work done by the Senate on this matter has not been recognized. It is unacceptable that the entire procedure prohibits someone from appending a dissenting opinion to a report tabled by a joint committee, or having someone else do so.

Can the Honourable senator tell me who signed the report? She was not here today. I presented the report, but I did not sign it.

[English]

**Senator Maheu:** Honourable senators, in answer to the last question of Senator Gauthier, I have not seen the report since it was deposited. The honourable senator said that other members of the Alliance Party could have deposited the report. The member was sitting on a plane on the morning of February 19. The plane caught fire. He could not get out of the airport. Therefore, he could not give his report to anyone else. If he could have left the airport, he would have had that report in by 5 p.m. on February 19.

[ Senator Maheu ]

In reference to the rules, I have so often hear about what we "cannot" and "should not" do. Honourable senators, we can do anything we want to in this house by unanimous consent, whether it is written or not written. We do it all the time.

**Senator Gauthier:** No, we do not.

**Senator Maheu:** I shall not argue with the honourable senator.

Senator Gauthier spoke about the *Journals* having annexed the dissenting opinion. The House was asked: May I present a report? The Speaker asked if Mr. Reid could "table" a report, and all of a sudden it was annexed. You can table a report or present it. Does that mean it is to be "annexed"? The word "annexed" was never used. I am not quite sure how Table officers deal with that.

I would read from the February 18 *Minutes of the Proceedings of the Standing Joint Committee of the Senate and the House of Commons on Official Languages*, which state:

Pursuant to Standing Order 108(1)a) the Committee authorize the printing of the dissenting or supplementary opinions by Committee members as an appendix to this report immediately after the signature of the Co-Chairs, that the dissenting or supplementary opinions be sent to the Co-Clerk of the House of Commons, in both official languages, on/or before Tuesday, February 19, 2002, at 5:00 p.m.

I agree that Mr. Reid was wrong. He did not have it available in both official languages. The man was struck on a plane that was on fire. We, in the Senate, I am quite sure, would have given unanimous consent as well.

**Senator Gauthier:** Who signed that report? Did the Honourable Senator Maheu sign that report?

**Senator Maheu:** I have not even seen the report. It was presented on my behalf and I have not seen it.

On motion of Senator Robichaud, debate adjourned.

• (1530)

## QUESTION OF PRIVILEGE

**The Hon. the Speaker:** Honourable senators, we have reached the end of the Order Paper. It is now appropriate for Senator Cools to take the floor on her question of privilege.

**Hon. Anne C. Cools:** Honourable senators, I rise to speak to this question of privilege. I shall be asking His Honour to make a ruling, a finding of *prima facie* breach of privilege. Accordingly, if His Honour makes such a finding, I am prepared to move a motion that I believe will remedy and correct the problem.

I should like to say, at the outset, that our Senate rules inform us that a senator's first duty is to defend our privileges. Rule 43(1) states:

The preservation of the privileges of the Senate is the duty of every Senator. A violation of the privileges of any one Senator affects those of all Senators and the ability of the Senate to carry out its functions outlined in the *Constitution Act, 1867*. Action to ensure such protection takes priority over every other matter before the Senate...

I should also like to remind honourable senators that the role of the Speaker of the Senate in the consideration of a question of privilege, *prima facie*, is confined not to deciding the question, but to deciding whether or not the motion should have priority over other issues, but not the substance of the question. It is deemed in our system and process that the question of privilege is actually decided by the entire chamber.

In addition, I should like to say to honourable senators that order and decorum are necessary characteristics of Parliament, a *sine qua non*. The literature on parliamentary and unparliamentary behaviour and parliamentary and unparliamentary language is profound. As parliamentarians, we share in the mighty phenomenon called the privileges of Parliament, the mightiest of which is the freedom of speech during proceedings in Parliament. This privilege was acquired by the bloodshed of successive generations. I hold these privileges, as does the Senate, jealously. That is the tradition.

Honourable senators, I am saddened by certain events that have occurred recently in this chamber. It is most unfortunate that the level of debate in this place has degenerated into immature outbursts that contribute nothing to the subject, a subject that is probably the most important one to my mind that has been placed before us, the subject, the meaning of and the law of marriage. Marriage, as we know, is fundamental to the social fabric of our community.

Honourable senators, I have listened to the debate on Bill S-9 in this chamber. What I have heard, in my judgment, has been blasphemous against the Catholic Church and against the Senate.

On Wednesday, March 6, 2002, in Senate debate, Senator LaPierre told us:

...every conceivable church and religion we believe in...have all been established by men wearing skirts. The Taliban, who also wear skirts, were only following the dictates of tradition.

Senator LaPierre continued to tell us that, after all, the church had executed a "campaign that coincided, oddly enough, with what became the compelling obsession of most religions: anti-Semitism." He continued to attack the Senate about my bill, saying:

...the Senate would become a co-conspirator in the denial of a right to a particular segment of society while according it to others.

Senator LaPierre concluded that Bill S-9 was "unnecessary, discriminatory and unjust."



Honourable senators, I am working my way to my question of privilege. I have been troubled that the Senate seems to have been overtaken by self-indulgent, egocentric rants and outbursts which seem to have replaced sound and reasoned argument, as juvenile histrionics, puerile theatrics and other antics seem to have overtaken logic, rational formulation and reasonableness. Such activity, I would submit, does a disservice to the debate, to the Senate, to senators, to homosexual persons, to all just persons and to all Canadians. It is not becoming. It is not worthy. It is also unparliamentary.

Honourable senators, the first duty of any member, senator or minister in our system of government is to uphold and defend the law. This Parliament, in the year 2000, passed Bill C-23, the Modernization of Benefits and Obligations Act, which at section 1.1 states:

For greater certainty, the amendments made by this Act do not affect the meaning of the word "marriage," that is, the lawful union of one man and one woman to the exclusion of all others.

Similarly, less than one year ago in this very session, we passed Bill S-4, the Federal Law-Civil Law Harmonization Act, No. 1. Section 5 states:

Marriage requires the free and enlightened consent of a man and a woman to be the spouse of the other.

Bill S-9 supports the Senate position, the position adopted by the government, the position the Attorney General has adopted in the three Charter challenges across the country, as well as the position adopted in the British Columbia Supreme Court by Mr. Justice Ian H. Pitfield.

I should like to add, honourable senators, that *Beauchesne's Parliamentary Rules & Forms*, 6th edition, at paragraph 479, states the following:

A Member may not speak against or reflect upon any determination of the House, unless intending to conclude with a motion for rescinding it.

Senator LaPierre has reflected on the Senate, its votes and its judgments, and has declined to use the proper procedure to persuade this chamber to adopt or accept an opposite or contrary proposition.

Honourable senators, the first duty of a senator is to uphold the constitution of the Senate. The constitution of the Senate informs that a contrary or opposite proposition to the one adopted last April cannot be adopted by the Senate in the same session. This senator seems not to grasp that any or all judgments of the Senate on the subject of marriage binds and includes him. It includes all of us.

My Bill S-9, An Act to remove certain doubts regarding the meaning of marriage, simply restates and tidies the process and the existing law.

[ Senator Cools ]

Honourable senators, I assert that my privileges as a senator have been violated in the following ways. In particular, I wish to refer to yesterday's *Debates of the Senate*.

Yesterday, during debate on Bill S-9, as I was attempting to ask some questions of our colleague Honourable Senator Lois Wilson, who had spoken on Bill S-9, I found myself in an amazing position: I found myself actually having difficulty speaking.

Honourable senators, I do not wish to repeat the exchange between Senator LaPierre and myself. However, I should like to say that some of it is actually recorded in the *Debates of the Senate* of yesterday. To be exact, there were two statements where Senator LaPierre had been, to my mind, sitting behind me, goading me. I offered him the floor. What captured my attention about his goading was that it included particular and peculiar statements about a particular justice, Mr. Justice Ian Pitfield.

Honourable senators, if you look at the record of yesterday, you will see that I say:

Honourable senators, perhaps I could defer and let my friend Senator LaPierre speak. He seems to want to say something.

The record shows Honourable Senator LaPierre saying:

Honourable senators, I was just telling Senator Cools that judges can be wrong.

This is what the record shows here, but that is not what Senator LaPierre had been saying behind me. Behind me, his remarks were specifically about Mr. Justice Pitfield.

His Honour seems to have kept right on. At that point, Senator LaPierre proceeded to continue to goad me in a very aggressive way, hollering, "Sit down, sit down." At that point, some of the exchange shows up on the record again. The Hansard record of yesterday shows me saying:

Out of order. I want an apology from this man.

I thought, at the time, that I should have had an apology. The matter would have been settled had Senator LaPierre sprung to his feet and made an apology.

The debate continued. For the most part, the record does not reflect the remarks of Senator LaPierre.

Honourable senators, I should like to say that, in my view, my privileges as a senator have been violated. I shall describe how in three different ways. The first is what I would describe as the disabling and destabilizing of a senator's right, mine in that case, to speak in a Senate proceeding. On my rising yesterday to speak during debate on Bill S-9, behind me Senator LaPierre yelled and shouted ill-natured, unpleasant and disrespectful utterances at me.



• (1540)

I believe that the express purpose of the utterances was to insult, embarrass, sideline and silence. All-shouted unpleasant utterances do not offend Parliament's privileges, so I do not want senators to think I am thin-skinned. These particular utterances do, because these loud, repetitive, continuous utterances were heightened by what I viewed as an insult to a superior court justice, and that is why, honourable senators, I am bringing this matter forward. I am pretty thick-skinned, but we must remember that no superior court justice sits in this chamber. He cannot rise and he cannot answer. This coupling, this linkage is clearly intended at silencing. Upon rising to speak during a debate, I do not expect, nor should any other senator expect to be visited by this kind of parliamentary injury, this sort of haranguing, these sort of rude, distracting, offensive shouts — aggressive shouts. It is provocative.

My most important point, honourable senators, I come to now. As we know, as I said yesterday, there have been three court challenges proceeding in this country on the question of the meaning of marriage. Those challenges have been proceeding in British Columbia, Ontario and Quebec. As I said yesterday, the first ruling came down in British Columbia, and the grounds on which those challenges were proceeding were the claims certain same sex couples were making, that the law of marriage discriminates against them. They were relying on the Charter, asking the judge to declare the law of marriage invalid and inoperational.

Honourable senators, Mr. Justice Ian Pitfield, of the Supreme Court of British Columbia, made his ruling last October 2001. That is now a part of the law of this country. As I said a few minutes ago, the first duty of a senator is to uphold the law and the Constitution of the Senate, the law of Parliament, the *lex parliamenti*. The superior courts of this land, along with Parliament and the cabinet, are co-ordinate institutions of the Constitution. Constitution comity and the balance of the Constitution are important principles, and they are part of the *lex parliamenti*. This is particularly important when in debate a senator engages a justice of the superior courts in his adjudicative and judicial role and judicial function. It is my parliamentary privilege that if and when I raise a justice of the court in debate, in his adjudicative function, so as to cite that judgment, that senators here should treat that justice respectfully and with sufficient and adequate decorum.

There is a tradition around this, honourable senators. In *Beauchesne's Parliamentary Rules & Forms*, 6th edition, paragraph 493 (1) tells us:

All references to judges and courts of justice of the nature of personal attack and censure have always been considered unparliamentary....

Senator LaPierre's unfortunate outburst against Mr. Justice Pitfield included in his indecorous behaviour and haranguing

directed at me; the two together are a violation of the privileges of this great chamber.

Honourable senators should understand that by the Constitution Act, 1867, the Parliament of Canada is endowed with the superintendence of section 96, judges. In the justice's adjudicative role, Parliament has a duty to protect the judges. Parliament owes them protection in their judicial roles, which is a very important point. They are owed that protection in that particular role, though not in other roles. It is the judicial function that is the pivotal role.

Honourable senators, that is the role in which I had raised the name of Mr. Justice Pitfield yesterday. Senator LaPierre's statements about Mr. Justice Pitfield were supercilious and were odious, very odious. The Senate and all senators are owed the truth, the law and the facts. They are so owed because they are the High Court of Parliament.

Honourable senators, when I spoke to lead this debate on June 13, 2001, Mr. Justice Pitfield had not ruled in the case of *EGALE Canada Inc. et al. v. the Attorney General of Canada et al.* In fact, my Bill S-9 predates these court challenges. Had Mr. Justice Pitfield ruled at the time I spoke last June, I would have included that in my speech, and I would have disclosed that judgment and that information from that first Charter challenge. When Senator LaPierre spoke on March 6, 2002, he had a duty then to disclose Justice Pitfield's ruling and to inform the Senate thereof. To do otherwise is to be insufficiently forthcoming.

Honourable senators, I must be honest. Yesterday, I was shocked by Senator LaPierre's treatment of Mr. Justice Pitfield. I was shocked that someone sat behind me making those statements, because there is a proper way to handle these matters. Mr. Justice Pitfield deserves a formal apology for being dishonoured here in the Senate chamber yesterday. It is my intention to propose one as part of this speech today.

Honourable senators, my privileges were further breached by the phenomenon of maligning. Not content to disagree, the same senator has maligned my initiatives, accusing my Bill S-9 and the Senate itself of discrimination. Senator LaPierre has even preposterously linked my bill and the Senate itself to anti-Semitism, to the Taliban and a range of atrocities. I object strenuously. A basic principle of freedom of speech in Parliament holds that claims must be substantiated, assertions must be supported and allegations must be proven. Parliamentary privileges include our exclusive right to give and to receive such evidence. The Senate's privileges have been breached because the senator in question has provided no evidence whatsoever to this chamber that my Bill S-9 is discriminatory. I ask him to prove his claim and to provide evidence of his claim. I further insist that until he has furnished such proof, he should content himself simply to disagree with me and avoid maligning me or past judgments, past opinions and decisions of this chamber. It is okay to disagree, but disagreement does not compel maligning, in my view.

Honourable senators, in coming to a conclusion, I just want to be quite clear what it was that I was raising yesterday about Mr. Justice Pitfield, which prompted this situation and which I have found a bit distressing. Mr. Justice Pitfield in his judgment in that British Columbia case upholding a marriage as between a man and a woman said in paragraph 212:

In my opinion, the issue before the court has nothing to do with the worth of any individual whether his or her preference is for a same-sex or opposite-sex relationship. The only issue is whether marriage must be made something it is not in order to embrace other relationships.

Again, in paragraph 200, Mr. Justice also said:

I do not understand the law to be that the *Charter* can be used to alter the head of power under s. 91(26) so as to make marriage something it was not when the various fields of legislative authority were divided between Parliament and the provinces.

Honourable senators, in conclusion, I move towards what I view as my resolution of the situation.

• (1550)

Honourable senators, I am mindful that Senator LaPierre is very new to this place. I am also very mindful of the fact that he feels passionately about certain things. I would propose, honourable senators, that the problem can be solved by a motion which just, in essence and in summary, does nothing other than apologize to Mr. Justice Pitfield. I would ask for a ruling from the Speaker to allow such a motion to be moved.

I should also like to be clear that I have not asked, and I am not asking the Speaker to adjudicate in relation to Senator LaPierre in any form or fashion. As I said before, had he not mentioned in his remarks the "wrongness" of Mr. Justice Pitfield, I would have let the incident pass as just a bad day. However, to the extent that the justice was brought into it, it seems to me that the Senate had to and ought to take note of it, because I have no doubt that the honourable justice will have heard about this, because news has a way of travelling quickly.

Honourable senators, I would make the point again: I understand that Senator LaPierre is new to this place. I accept that. I am not asking the His Honour to pass any judgment on him personally, but I would ask His Honour, *prima facie*, to allow this motion to be put before the chamber. Perhaps I should let the chamber know the text and the substance of this motion. I would propose to move:

That the Senate of Canada agrees that the unhappy remarks of an individual senator about Superior Court Justice, the Honourable Mr. Justice Ian Pitfield, were undesirable, unfounded and unparliamentary, and that such remarks do not reflect the opinion of the Senate of Canada;

[ Senator Cools ]

and also that the Senate agrees to express its regrets to the honourable justice in the following words:

The Senate of Canada expresses its deep apologies to the Honourable Mr. Justice Ian H. Pitfield of the Supreme Court of British Columbia for any slight, insult or injury, either actual or perceived, that may have been occasioned to the honourable justice's high judicial function by the ill-considered and thoughtless remarks of an individual senator in the Senate chamber.

And further, that the Senate orders that this apology be communicated to the Honourable Mr. Justice Pitfield by letter under the hand and signature of the Clerk of the Parliaments, the Clerk of the Senate, Mr. Paul Bélisle.

Honourable senators, I hope that I have made it clear. Rule 44(1), which is one of the rules around this question of privilege, states:

When a *prima facie* case of privilege has been established, the Senator who raised the matter may move a motion calling upon the Senate either to take action on the matter or to refer the matter to the Standing Committee on Rules, Procedures and the Rights of Parliament for investigation and report.

I am not proposing the alternate route of sending the matter to a committee. I am proposing, honourable senators, that the Senate chamber be allowed to debate this particular motion which contemplates an apology to the honourable justice. At that point, the issue would become a debatable question because, honourable senators, there is considerable confusion in this place about the role of the Speaker in *prima facie* questions of privilege because, in actual fact, the real debate should take place on the motion that is proposed.

Honourable senators, to my mind, this seemed to be an adequate parliamentary way of resolving a particular problem in that the judgment of the Senate could be made on the substance of the motion itself.

I thank you, honourable senators.

**Hon. Lowell Murray:** Honourable senators, I hope that I would be among the first to insist on upholding the rule and the healthy tradition that members of Parliament or of the Senate ought not to speak disrespectfully of judges — or anyone else for that matter — but in particular of judges, who are under severe constraints as to the extent to which they can defend themselves. That being said, if Senator LaPierre spoke disrespectfully, as Senator Cools states, of a particular justice, it is not on the public record. I think she has acknowledged that. I did not read it in his earlier speech.

That being the case, I do not see how, first, His Honour can be seized of allegedly disrespectful comments when they are not on the public record, much less how the Senate can be called upon to apologize for them to the judge in question.



Second, I do make the point that, however objectionable Senator LaPierre's earlier intervention or, indeed, his interruptions may have been in the mind of Senator Cools, she has to reconcile her objections, it seems to me, with her earlier, quite eloquent statements about the need to protect freedom of speech in this place.

Finally, as to what would constitute an offensive statement against judges, I draw her attention to a statement made by the late former Prime Minister of Canada, the Right Honourable Pierre Elliott Trudeau, in which he denounced the majority of the Supreme Court of Canada in one of the landmark decisions of our era, namely the *Patriation Reference* case in the early 1980s. He made a statement, and I believe I am quoting him almost word-for-word, that the majority of judges in the Supreme Court of Canada had taken a certain position in order to give their conclusion "a fig-leaf of legality." How do you like that?

**Senator Cools:** I thank Senator Murray for his very thoughtful remarks. That particular speech is one I know quite well, and it was made at the opening of the Bora Laskin Law Library in Toronto.

I must say that the phrase that Senator Murray has just quoted is one of the more gentle statements Mr. Trudeau made.

**Senator Murray:** Did the honourable senator object?

**Senator Cools:** Did I object? I quote those statements. I do not object. I agree with what he said. The fact of the matter is that one can make statements about judges and one can express condemnation of judges, one can do all manner of things, but one must proceed in a way that is consistent with our constitutional history and our constitutional practices. All I am saying, is that, yes, the same remarks made by Senator LaPierre could have been made on another occasion, but they would have to have been said in a different sort of way.

I think Senator Murray's second point on the freedom of speech question and the question of the public record are very valid points. The fact of the matter is that the public record here shows that, when called upon to repeat what he was saying under his breath or to me, to my back, the senator did not repeat exactly the same words. He was saying that that particular judge was wrong but, when he actually rose he said, "Honourable senators, I was just telling Senator Cools that judges can be wrong." I think we all know judges can be wrong and, in point of fact, judges are frequently wrong. I would say, oftentimes they are wrong. My objection —

**Hon. Senators:** Oh, oh!

• (1600)

**Senator Cools:** We heard Senator Raynell Andreychuk a few minutes ago, in a very important speech, cite a very famous lawyer in Toronto, Dianne Martin, about the record of wrongful convictions that that particular lawyer had researched. I am saying to honourable senators, at the end of the day, that all

things considered, yes. What I was driving at was the time-honoured tradition we have that when we make critical statements about judges, they are supposed to fall within a certain kind of procedural framework. They are not supposed to be made as asides during another debate.

The final point that I make about freedom of speech is the following: I want honourable senators here to be assured that I am a great believer in freedom of speech. As a matter of fact, many honourable senators here know that when Senator LaPierre came to this chamber, he found himself in difficulty with particular senators in the first several days and I sprung to his defence to shield him from attack. Freedom of speech is very important.

The essential point is that I brought forth this question because it was more than a usual goading. A good heckle is a fun thing; it is clever and intellectually stimulating. However, what we had here was a combination of what I thought was aggression expressed from one member to the other with a bit of bullying in it. It just so happened that a particular statement about a particular judge was couched inside of that. The reason I brought it forward is to make sure that the two things, if they can be uncoupled, are uncoupled so that the matter can be dealt with in a proper way; that is, it will go forward for debate in the chamber. If it does not go forward then it does not go forward.

However, at the same time, I think honourable senators know that I am free to make the same motion at any given moment under notice. I just thought that it would be nice if we could begin to apologize to Mr. Justice Pitfield before he began to hear too much about this or perhaps was reading it in the newspapers. That was my thinking.

**The Hon. the Speaker:** Honourable senators, before I call on Senator LaPierre, I have Senator Lapointe also wishing to speak and I should like to call on all other senators who wish to comment. I will then give Senator Cools an opportunity to respond. It is Senator LaPierre, after all, who is the subject of the matter raised by Senator Cools. I am sorry that I did not recognize him earlier.

[Translation]

**Senator Laurier L. LaPierre:** Honourable senators, first, I wish to apologize for causing a problem without really knowing why. Second, I would like to know whether I am now on trial because, if so, I will need a few lawyers. My colleague, Senator Day, who defends me constantly, is not here right now. If I am on trial, perhaps Senator Stratton could protect and defend me.

Honourable senators, I wish to make a few remarks, which might perhaps explain what Senator Cools is saying. I will not speak —

[English]

— on my points regarding the marriage bill.



[Translation]

Right now, I think that Senator Cools has tried the patience of honourable senators by reinventing her arguments in favour of Bill S-9. I would not want to place myself in that position, because I will have an opportunity to do so on another occasion.

[English]

**An Hon. Senator:** Honourable senators —

**Senator LaPierre:** I am sorry, but I am on my feet. The Senate has various rules and regulations that I could quote in that respect. There are about 17 of them. I will quote them if honourable senators wish, but I will not take your time by doing that.

Second, I should like to say that when I said “wrong” yesterday, it was essentially because, out of her memory, she was quoting Mr. Justice Pitfield. I had before me the statement of Mr. Justice Pitfield, and I came to the conclusion that there were parts being left out — no doubt it was my error, because I do not understand English very well — and consequently I said “wrong.” When I rose, I said what everyone else says to the effect that judges can be wrong.

The other thing I said to Senator Cools was to sit down because she has taught me, since the beginning, two things. She has taught me that people can say whatever they like, whenever they like. However, she was standing up while His Honour was on his feet. I know her to be very cognizant of the rules and, above all, having a tremendous appreciation of them. Consequently, I wanted to remind her of rule 18(5) to the effect that when His Honour is on his or her feet, we ought to sit down. Therefore, I asked her to “sit down” so that she would not be breaking the rules she loves so much.

This is what happened, honourable senators. As far as I am concerned, this matter is over. I do not intend to apologize to God or to anyone else for that matter — unless, His Honour orders me, and then I would obey him to do that. Secondly, I do not intend to participate in this discussion, which I do not find humiliating, but which I find somewhat fascinating.

[Translation]

**Hon. Jean Lapointe:** Honourable senators, Senator Cools made a remark to the effect that the Senate should apologize for the comments made by Senator LaPierre regarding the Honourable Justice Pitfield. I do not think that is the case. If anyone should apologize, if there is cause for apology, then I think it should be Senator LaPierre.

Honourable senators, you know my chronic impatience when it comes to wasting time in the Senate. Quite honestly, I have to say that I am starting to lose my patience.

Senator Cools knows the *Rules of the Senate* better than anyone else here and has an intelligence that is above average.

[ Senator LaPierre ]

However, it seems to me that questions regarding the rules are the greatest source of wasted time in the Senate, at least since I have been here.

Honourable senators, while I am in no place to give advice to anyone, I would suggest that Senators Cools and LaPierre go out and have a drink and settle their differences, thereby sparing the Senate from their completely useless squabbles that the Chamber can well do without.

Because of these discussions, we are putting off a good number of bills and motions every day. I think that fewer would be skipped if certain senators spent less of the Senate's time demonstrating their knowledge and learning. Having said this, I think that there is more important business in the Senate than bickering between senators.

Perhaps I am wrong to speak my mind. It is true that I do not often speak, but when I do speak, I like to say things that I believe to be important. It was time that someone rose to say that they had had enough of these wastes of time.

[English]

**The Hon. the Speaker:** Before I call on Senator Cools, I am wondering if there are any other senators who wish to intervene.

**Hon. Terry Stratton:** Just very briefly, because I should at least explain what took place between myself and Senator LaPierre. There is a problem in this chamber with regard to this rule, and it gets worse and worse as time progresses until His Honour stands up and says, “Ladies and gentlemen, senators, please be seated when I am standing.” He does not enforce this rule enough. This happens all the time. When the Speaker stands and honourable senators are debating an issue, they are supposed to sit. That is quite clear in the *Rules of the Senate*.

• (1610)

I simply motioned that someone should sit. Senator Cools consistently, at least in my observation, does not do that; she continues to stand. I went over to Senator LaPierre and suggested that perhaps the senator could remind Senator Cools of rule 18(5) on page 18, which states:

When the Speaker rises, all other Senators shall remain seated or shall resume their seats.

I tried to politely remind her to be seated when the Speaker was speaking. That is it, fundamentally. Senator LaPierre, to my understanding, did exactly that.

**The Hon. the Speaker:** Senator Cools now has concluding remarks.

**Senator Cools:** Honourable senators, I have a couple of comments. I appreciate Senator Stratton's attempt at levity.

On the question of the judgment by Mr. Justice Pitfield, I have no doubt about the comments I made in the chamber yesterday. I had Justice Pitfield's judgment in my hand at the time and I have it even now in my hand. I have absolutely no doubt whatsoever about the content of that judgment because I have read it quite exhaustively and thoroughly.

About the other matter, I had hoped that Senator LaPierre would apologize and close the matter. He has declined to do that. I have no doubt that we will be hearing and receiving letters about this situation. We will simply cross those bridges when we get to them.

Honourable senators, it is sad, in a way, that Senator Lapointe finds some of this debate and some of these issues tiresome, boring and uninteresting. I would like to invite him to examine his position, perhaps, to look at the important constitutional principles that are at stake in this issue. That is especially true in respect of the important constitutional question of the balance in the Constitution and the relationship between Parliament and the judiciary, and the important roles that were imposed upon the Parliament of Canada in what we call the safeguarding of judges.

Finally, on the substantive matter again, because, coming back to Lapointe's —

**Senator Lapointe:** Senator Lapointe.

**Senator Cools:** That is what I said. I said, “—coming back to Senator Lapointe.” Perhaps I missed it. What did you say?

**Senator Lapointe:** You called me “Lapointe.”

**Senator Cools:** Okay, — coming back to Senator Lapointe.

**Senator Lapointe:** Thank you.

**Senator Cools:** Coming back to the honourable senator, I would like to encourage him to learn something about the important principles that I was bringing forward today, and especially in the field of what we call “constitutional comity.” I would invite the honourable senator to push himself a little bit and endure a little bit of the boredom to be able to attend to some of these questions.

In any event, I have pretty much said what I had to say. I do not accept for a moment the explanation that has been provided by Senator Stratton. In fact, I know what was being said to me

yesterday; I know the attitudes that were being communicated; and I know the amount of force and aggression that was being expressed. I have absolutely no doubt.

However, as I said before, the sad thing is not that Senator LaPierre was attacking me, because I was already on my feet when it was all happening. As a matter of fact, I sat down to give him the floor to speak. Therefore, Senator Stratton's comment is totally inapplicable because I was standing when this was happening. I looked over and I said, “Senator LaPierre seems to want to say something. I will sit down and let him speak.” Perhaps we should just note that. The explanation that Senator Stratton has given is totally unacceptable to me.

I understand exactly how some of these things work. Having said that, honourable senators, I believe there is a *prima facie* breach. If His Honour finds that there is not, then there is not a problem at all. Every senator at any given moment is entitled to put any motion on notice. The only difference between *prima facie* and doing it on notice, quite frankly, is a matter of two or three days.

**The Hon. the Speaker:** Honourable senators, we have developed a very lengthy record and I would like to review it before making a ruling, which I will do so at the first opportunity.

[Translation]

## ADJOURNMENT

Leave having been given to revert to Government Notices of Motion:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, March 19, 2002, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned to Tuesday, March 19, 2002, at 2 p.m.





**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
 Thursday, March 14, 2002

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd 01/06/06	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01	01/12/18	30/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament	02/03/05	4			
S-40	An Act to amend the Payment Clearing and Settlement Act	02/03/05	02/03/12	Banking, Trade and Commerce	02/03/14	0			
S-41	An Act to re-enact legislative instruments enacted in only one official language	02/03/05							

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negated 01/12/10	11 1 at 3rd 01/12/13	01/12/18	02/02/19	1/02
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs	02/02/19	2			
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce					
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	01/12/18	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-27	An Act respecting the long-term management of nuclear fuel waste	02/03/05							
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-30	An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts	02/03/05	02/03/12	Legal and Constitutional Affairs					
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	01/12/18	33/01
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	01/12/18	28/01



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts (withdrawn 01/11/21) 01/11/22 (reintroduced)	01/11/06 01/11/21	01/11/27	Energy, the Environment and Natural Resources					
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	01/12/18	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs	02/03/13	0			
C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples	02/02/19	0	02/02/20		
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources	02/03/07	0			
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0	02/02/21		
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	—	—	—	01/02/08 Senate agreed to Commons amendment 01/12/12	01/12/18	36/01
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology	01/12/14	0			
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01		
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Gratstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources	01/11/27	0			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)	(01/12/14)				
S-22	An Act to provide for the recognition of the <i>Canadian Horse</i> as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Metis People (Sen. Chalfoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13							
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							
S-39	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/02/19							



## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	42/01
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01

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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 98

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 19, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



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## THE SENATE

Tuesday, March 19, 2002

The Senate met at 2:00 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### PARALYMPIC GAMES, 2002

##### SALT LAKE CITY—SUCCESS OF CANADIAN ATHLETES

**Hon. Joyce Fairbairn:** Today, honourable senators, I am delighted to congratulate Canada's Paralympic athletes for their record-breaking performance in Salt Lake City. They brought home 15 medals, and Canada is now ranked sixth in the world, a spectacular jump from fifteenth in the 1998 games in Nagano.

From Canmore, Alberta, our blind Nordic skier Brian McKeever, with his brother and guide Robin, won two gold medals and a silver one. Calgaryan Lauren Woolstencroft, injured the first day, fought back to win two golds and a bronze in alpine skiing. Calgary alpine colleague Karolina Wisniewska collected the largest number of Canadian medals, with two silver and two bronze.

From New Westminster, veteran alpine sit-skier Daniel Wesley brought home a pocket full of gold, silver and bronze, and his teammate Scott Patterson of Vancouver was on the podium for the first time with a bronze.

After injuring his knee in a practice run, world champion blind alpine skier Chris Williamson from Scarborough and his guide Paralympian Bill Harriott from Calgary kept trying throughout the week and, on the final day, blazed down the mountain for a gold medal.

Our sledge hockey team, of which I am so proud, came within a whisker of the bronze in one of the most exciting contests of the games. We tied Sweden, went into overtime and tied, and then went into a five-player shootout and tied. The game finally came down to a one-on-one shootout and Sweden won. Team captain Todd Nicholson of Ottawa, a leader on and off the ice, was named all-star defenceman of the games.

The other members of our team — Nordic sit-skiers Shauna Maria White from Hinton and Collette Bourgonje from Saskatoon, alpine sit-skier Stacy Kohut from Banff, alpiners Ian Balfour from Pincher Creek, Gord Tuck from Victoria, and Mark Ludbrook from Whistler, who carried in our flag — all competed with great skill and heart.

In the end, the Canadian team brought honour and affection to this country as they fulfilled, with class and pride, the values of "Mind, Body and Spirit" that are the international Paralympic creed. These are individuals whose excellence goes far beyond competitions. They are vivid and willing examples to all Canadians, particularly disabled young people, who see and hear their message, which is, "Yes, you can reach your goals."

Thanks to the CBC and other news outlets, Canadians had a chance to witness the accomplishments of these magnificent athletes. Hopefully, this will accelerate support for their efforts as well as the larger message that Canada must become a country where access and opportunity is truly the right of each citizen. We thank the athletes, their coaches, Sport Canada and all of the sponsors for leading the way. It was a great games for Canada.

#### NUTRITION MONTH

**Hon. Yves Morin:** Honourable senators, 150 years ago, before vitamin C was discovered, sailors exploring the world knew that eating citrus fruits prevented scurvy. Since then, we have added iodine to salt, fortified milk and margarine with vitamin D, and most recently added folic acid to white flour and pasta products.

March is Nutrition Month. This year, Nutrition Month is particularly important as it was officially stated recently that obesity, especially obesity in children, has now surpassed tobacco smoking as the most important preventable public health problem in our country. As a matter of fact, one preschool child out of four in North America is overweight. We are now aware, more than ever, of the deleterious influence of the fast food industry and its very effective marketing on the food habits of our children and, in my case, grandchildren.

Honourable senators, in universities, hospitals, clinics and laboratories across the country, researchers are exploring how what we eat affects our health. The Canadian Institutes of Health Research, through its Institute for Nutrition, Metabolism and Diabetes, under the able direction of Dr. Diane Finegood, funds more than 400 researchers across the country.

•(1410)

[Translation]

At Laval University, the Institut des nutraceutiques et des aliments fonctionnels, under the direction of Dr. Paul Paquin, has a close interest in the relationship between diet and prevention. Increasingly, the scientific evidence indicates that certain molecules or ingredients in food have beneficial effects on health, that go beyond basic nutrition. This is precisely what Dr. Paquin's research is on.

[English]

At the University of Manitoba, CIHR funded researcher Dr. Hope Weiler is focussing on nutritional intervention in pre-term infants and its effects on catch-up growth, bone mineralization and neurodevelopment.

Honourable senators, sharing research results is an important undertaking. The information is vital, not for just those with specific health concerns, but for everyone who wishes to maintain and improve their health. The Canadian Health Network, funded by and in partnership with Health Canada, is a rich source of health information provided by more than 700 non-profit organizations dedicated to helping Canadians understand recent research findings, so that they can make healthy choices.

[Translation]

The government must therefore be involved not only in research on nutrition but also in insuring that the knowledge thus acquired is made readily available to Canadians. This area is, honourable senators, one of the most important areas of public health, not only in this country, but in the entire international community.

[English]

## THE ECONOMY

**Hon. Gerry St. Germain:** Honourable senators, like most Canadians, I am deeply concerned about what is happening to our country. I have raised this issue many times in this place. The management of our economy over the last 10 years has resulted in the worst decade for living standards since the 1930s.

For the past two years, the loony has been falling against the U.S. dollar at an annual pace of nearly 5 per cent. Over the last decade, U.S. productivity has increased by about 23 per cent while Canada's productivity has risen by a mere 16 per cent.

Last week, Deputy Prime Minister John Manley said the low value of the Canadian dollar is a crutch that allows Canadian companies to remain competitive, even if they are not. He said that some companies cannot compete and would fold if our currency increased in value against the U.S. dollar. He said that productivity is the country's most pressing economic concern. I believe he tried to get the Finance Minister to do something, but the Finance Minister has been too wrapped up trying to assume the Liberal leadership.

Honourable senators, our businesses will not survive if things do not change soon. The Prime Minister and the Minister of Finance can talk up the dollar all they want, but now is the time to actually do something. The federal government may have reduced personal income taxes slightly, but the high level of taxation on property, payrolls and capital reduces profit that could be spent on productivity, research and development, and

working on technology. The government needs to play its part by reducing regulation and taxes and improving coordination among all levels of government on business issues.

Three things make Canada less competitive on the world stage — high government debt levels, high taxes and high government spending. Innovation must come from the private sector. The role of government is to ensure that there is reward for risk, and create an atmosphere in which the private sector can innovate. Otherwise, government should stay out of their way.

Lord Black was not really wrong when he described this country as too socialistic and headed for economic ruin. We are in a situation possibly similar to that of Argentina, today.

## CANADIAN BROADCASTING CORPORATION

### PRINCE EDWARD ISLAND—TWENTY-FIFTH ANNIVERSARY OF RADIO BROADCASTING

**Hon. Elizabeth Hubley:** Honourable senators, on March 7, 2002, CBC Radio in Charlottetown celebrated its twenty-fifth anniversary. It was a great day both for management and staff of the station and for the people of Prince Edward Island.

Honourable colleagues, my province has an illustrious history in radio, going all the way back to 1926 and the Bayfield Street Charlottetown studio of CFCY — the "Friendly Voice of the Maritimes." In fact, the founder of CFCY, Mr. Keith Rogers, was one of Canada's broadcasting pioneers. When public broadcasting finally arrived in Prince Edward Island in 1977, a strong tradition of quality local programming already existed.

From the day it went on the air from the old studios above the Atlas Tire store in Charlottetown, CBC Radio gave notice that it was committed to carrying on this tradition of programming about the Island, for the Island.

Combining local, regional and national news and current affairs with information about the community, and demonstrating its strong commitment to discovering and sharing with Islanders their heritage and culture as expressed in stories, poetry and song, CBC Radio quickly became a valued institution in the province.

CBC Television, of course, also continues to leave its mark on the Island, but it is the FM radio service that has carved out a special place in the hearts of our citizens.

Prince Edward Island is a small and intimate community. We tend to know one another, or at least who our fathers and mothers are and where they come from. Most Islanders know our CBC Radio hosts by first name. They are good neighbours who come into homes every single day bringing winter storm warnings and road reports, news about community festivals and events and political debate. CBC Radio has been a mainstay of Island life during its quarter century of service.



Honourable senators, I know that CBC Radio is important to millions of Canadians, but it is especially important in rural communities where there are fewer broadcasting choices and where the boundaries of the communities are more clearly drawn. In such places, CBC Radio is an indispensable and powerful force contributing to community renewal and growth and also serving as a bridge between provincial and national identities.

Honourable senators, Canada is a stronger and richer country because of public broadcasting. I invite you to join with me in wishing the management and staff of CBC Radio Charlottetown a very happy twenty-fifth anniversary.

[Translation]

## THE ART OF JEAN-PAUL RIOPELLE

**Hon. Gérald-A. Beaudoin:** Honourable senators, for the past week, we have heard much well-deserved praise in tribute to Jean-Paul Riopelle from those who have known him well and those who are experts in the field. What has this great man left behind in the century that has just come to a close?

Jean-Paul Riopelle has left a huge body of work, joyous and larger-than-life work. He was one of the leading artists of this past century. A painter, sculptor and engraver, a man whose ardent love of nature was so evident in his canvasses, he has left his mark on his time. Riopelle was unique.

He joined forces with Paul-Émile Borduas and the automatists in 1944. The cover of their 1948 Manifesto featured a Riopelle watercolour. In 1948, he settled in Paris, where he made a huge name for himself. Moving back and forth between France and Canada until 1988, he then returned here to live. His name will be on people's lips for a long time.

Honourable senators, we have been incredibly fortunate to have had such a genius among us. Thank you, Jean-Paul Riopelle.

[English]

## COMPANY OF YOUNG CANADIANS

**Hon. Thelma J. Chalifoux:** Honourable senators, the Company of Young Canadians, in existence now for more than 30 years, has hit the news again. I am proud that my name was mentioned yesterday along with such notable Canadians as former Foreign Affairs Minister Lloyd Axworthy, former Toronto Mayor Barbara Hall, environmentalist Maurice F. Strong, and First Nations leaders Phil Fontaine and Georges Erasmus, to name a few, as members of the alumni of the Company of Young Canadians. However, I am not impressed with the reasons for which we and others have been mentioned in the press this week.

A freedom of information request reports that the RCMP labelled us as members of a subversive terrorist organization dedicated to the destruction of Canadian society. None of the

people mentioned were terrorists. Our "crime" was that we were idealists in pursuit of social reform.

In the Canadian North, thousands of our people benefited from our programs. Agricultural societies were created; organic farming was pursued; and moms and tots programs were organized to counsel non-Aboriginals through the long northern nights because of the problems of depression. These were just a few of the activities.

• (1420)

The idea of the Company of Young Canadians was inspired by the Peace Corps, established five years earlier by President John Kennedy. Its purpose was to enhance our citizenship. The experience benefited thousands of young Canadians. The Company of Young Canadians, established by Parliament in 1966, was a child of the progressive attitudes of the Liberal Party of Prime Minister Pearson.

In 1970, the RCMP, by its failure to foresee the October Crisis, readied itself to pounce on anyone who did not fit its view of the ideal Canadian. I remind those in the RCMP that, today, I am alive and well. I am neither a subversive, nor a terrorist. I am a loyal Canadian and I am a proud alumnus of the Company of Young Canadians. We were agents of social change. I like to think that we played a large part in bringing Canada's regions into the industrial revolution of the 21st century.

## ROUTINE PROCEEDINGS

### THE ESTIMATES, 2002-03

INTERIM REPORT OF NATIONAL FINANCE COMMITTEE  
ON MAIN ESTIMATES PRESENTED

**Hon. Lowell Murray:** Honourable senators, I have the honour to present the thirteenth report of the Standing Senate Committee on National Finance, which deals with the main Estimates, 2002-03, first interim report.

Tuesday, March 19, 2002

The Standing Senate Committee on National Finance has the honour to present its

### THIRTEENTH REPORT

Your Committee, to which were referred the 2002-2003 Estimates, has, in obedience to the Order of Reference of March 5, 2002, examined the said estimates and herewith presents its first interim report.

Respectfully submitted,

LOWELL MURRAY  
Chair

(For text of report, see today's Journals of the Senate, Appendix p. 1316.)

[ Senator Hubley ]



**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Murray, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## BUDGET IMPLEMENTATION BILL, 2001

### FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, with leave of the Senate and notwithstanding rule 57(1)(f), bill placed on the Orders of the Day for second reading later this day.

## LEGAL AND CONSTITUTIONAL AFFAIRS

### NOTICE OF MOTION TO AUTHORIZE COMMITTEE TO STUDY IMPLEMENTATION OF STATUTORY REVIEW PROVISIONS

**Hon. Lorna Milne:** Honourable senators, I give notice that at the next sitting of the Senate, Wednesday, March 20, 2002, I shall move:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implementation of statutory review provisions contained in selected legislation relating to legal and constitutional matters;

That the papers and evidence received and taken during the examination of such legislation during previous Parliaments, and reports thereon, be referred to the Committee; and

That the Committee submit its final report to the Senate no later than December 20, 2003.

## INTERNATIONAL DAY FOR ELIMINATION OF DISCRIMINATION

### NOTICE OF INQUIRY

**Hon. Vivienne Poy:** Honourable senators, I give notice that on Tuesday, March 26, 2002, I will call the attention of the Senate to the significance of March 21, the International Day for the Elimination of Racial Discrimination.

## QUESTION PERIOD

### NATIONAL DEFENCE

#### REPLACEMENT OF SEA KING HELICOPTERS— WITHDRAWAL OF EUROCOPTER FROM COMPETITION

**Hon. J. Michael Forrestall:** Honourable senators, is the Leader of the Government in the Senate in a position today to confirm what we learned from the scrum outside the other place, that Eurocopter has withdrawn the Cougar from the Maritime Helicopter Project competition?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Honourable Senator Forrestall has asked if I can confirm. Yes, Eurocopter informed officials of the Department of Public Works, on March 18, 2002, that it is withdrawing the EC 725 helicopter from the competition, which was a business decision on their part.

#### WAR IN AFGHANISTAN—VETERANS BENEFITS TO TROOPS— TERMS OF SPECIAL DUTY AREA PENSION ORDER

**Hon. J. Michael Forrestall:** Honourable senators, my other question for the Leader of the Government is a matter that I have raised here on a number of occasions. It is in regard to the preciseness with which Canadian Forces are operating in Afghanistan and generally on service in Operation Apollo.

Has the government moved to amend the special duty area pension order to include Afghanistan and the service on Operation Apollo?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I cannot give Senator Forrestall an answer to that question. I thought the matter was covered in the Order in Council. It is a particularly narrow issue, although it is not narrow in terms of those who would receive pension benefits. However, in my reading of the answer to your question, it is not necessarily covered. Therefore, I will make a specific request to that issue.

**Senator Forrestall:** Honourable senators, there is confusion as to whether those presently serving are covered. The special duty area pension order deals exclusively with veterans' benefits for war service. The order allows, as the leader will know, a lower evidence of burden on veterans for those disabled or having been killed in a special duty area. Indeed, she now knows that it has only to be shown that death or injury resulted from an injury or an illness during such service. As a preventive measure, a special duty pension order also removes the pre-existing condition from the disabled veterans receiving the benefits. In other words, it must be specific because the order, in the beginning, was location-specific.

Finally, disability due to service in a special duty area allows for — and this is part of the importance of it — veterans to apply for or, in some cases, be awarded public service jobs, for example, without competition.

The fact of the matter is that, as of last Thursday, the special duty area pension order had not been amended to include service in Afghanistan or to include troops engaged in Operation Apollo, where troops are fighting al-Qaeda and the Taliban on the front lines. With Canadian Forces personnel on Canadian ships intercepting one in six of all ships intercepted in the adjacent sea, it becomes clear that we are dealing with a large number of people.

It is also clear that this anomaly will raise some questions in the minds of veterans and their families until such time as it can be cleared up. If a simple amendment to the order is required, I have no doubt that the order would stand up. If only a simple amendment is required, let us prepare that amendment to avoid embarrassment for the veterans and their families. They should not have to say, "The order was not area specific, but the intent was clear." Let us make it specific and clear. Is that possible?

**Senator Carstairs:** Honourable senators, as the honourable senator knows, up to 2,500 Canadian service people are now or have been engaged in the activities of Operation Apollo, either on land or at sea. This is an important issue for all of them. I will make inquiries to try to speed up a resolution because, obviously, it is a sensitive matter.

[Translation]

## NATIONAL REVENUE

### ONE-TIME GRANT TO RECIPIENTS OF GST CREDIT TO OFFSET HEATING COSTS

**Hon. Roch Bolduc:** Honourable senators, the Leader of the Government in the Senate will remember that the last time we discussed this issue, in the fall, I mentioned that 8,600,000 cheques of \$125 had been sent before the election to help poor people pay their heating oil, since prices had increased. Eight million cheques were sent. Many people received cheques. The whole operation cost \$1.5 billion.

Apparently, 7,700 deceased persons, 4,600 persons living abroad and 1,600 inmates received cheques to pay their heating oil. Moreover, it has been determined that 600,000 individuals who were eligible for these cheques did not get one. Those who were in dire straits did not get a cheque, while some who were living in relative comfort did! In short, \$500,000,000 were not given to the right people. Apparently, \$500,000,000 have vanished. It is normal to ask — these are public funds — where the government will get that money. In the taxpayers' pockets. We know that some of those who received these cheques are well off. Only one-third of those who were living in relative poverty got one. The government does not know where \$500,000,000 went, and it does not want to recover the other \$500,000,000.

The Agency — because now we do not talk to ministers any more, we talk to agencies — said, through its spokesperson, that

it would not recover the money and that the case was closed. Could the leader of the government explain this?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the honourable senator will recall, the process for sending out the GST rebate cheques was on the basis of whether individuals had applied in the past for GST rebates. Those eligible for GST rebates are among the poorest people in the country who are deemed, on the basis of their tax returns, to have incomes well below the average in Canada. It was on that basis that the system sent out cheques to those individuals.

We have had this discussion before about what happens if someone receives a rebate cheque although they have died. In that case, we know that their estate must return that cheque to the federal government. It would be fraudulent for another person to sign that cheque on behalf of the intended recipient, unless the person was the inheritor of the estate. In that case, there would be narrow provisions upon which they would be allowed to do that.

We never questioned that some cheques ended up in the wrong hands. We knew at the time that, in all likelihood, some cheques would turn up in the wrong hands. Some people who, perhaps, deserved the money did not receive it. Regrettably, that was due to the system that was used. Apparently, those individuals had not been entitled to a GST rebate for that particular year.

[Translation]

**Senator Bolduc:** Honourable senators, I do not understand why the government says that it will not recover the money. It is making a matter of principle of it. It gives money to people who were not supposed to receive it and says that it will not recover it. What is this government's policy?

On the one hand, it says that it will not recover this money from people who are comfortably off and, on the other, when a taxpayer owes it \$2.25, the government spends \$25 to recover it. What is the explanation for this state of affairs?

[English]

**Senator Carstairs:** Honourable senators, we all know that Senator Bolduc does not receive a GST rebate because he has told us that he did not receive that cheque. I would assume that that applies to each honourable member of this chamber. We are not entitled to a GST rebate on the basis of the income that we earn from the Government of Canada.

In the reality of the situation, it is sometimes more costly to claw back certain issues than to not do that, and to recognize that the system, from the outset, was not absolutely fair. However, the system was as fair a system as the government could use at a time when many people in Canada were in crisis because fuel bills had escalated so quickly and dramatically. The government made the decision that this system would be the way in which to administer the rebates.



[Translation]

**Senator Bolduc:** Honourable senators, I would point out that the minister gives the impression that there were only a few cheques. That is not the case. We are talking about \$500,000,000 or half a billion dollars. I find this scandalous. Anywhere else, the government and the ministers would be out of a job. In Ottawa, they are promoted when they do things like this. It is crazy!

[English]

**Senator Carstairs:** Honourable senators, I have no indication that \$500 million is an accurate figure. We will hear from the Auditor General about the true figure. I have no proof that the figure spoken to today by the Honourable Senator Bolduc is, in fact, correct.

[Translation]

## OFFICIAL LANGUAGES

### CANADA POST— OBSERVANCE OF STATUTE IN ATLANTIC PROVINCES

**Hon. Pierre Claude Nolin:** Honourable senators, last weekend, according to the media, a conference was held in Memramcook, New Brunswick, at which the status of French in the Atlantic provinces was discussed. On this occasion, a Canada Post employee complained that her language rights were not being respected.

Is the minister aware of this conference? If so, is she aware of the problems mentioned by this employee? Can the minister confirm that Canada Post is doing everything in its power and everything that it is required to do, to respect the language rights of its employees?

[English]

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as the Honourable Senator Nolin is well aware, the Honourable Stéphane Dion, Minister of Intergovernmental Affairs responsible for ensuring that the official language policy is at its full blossoming, has indicated that he is listening carefully to issues such as the one that has been indicated today. Canada Post is a Crown Corporation and has obligations under the Official Languages Act. I will certainly bring to the attention of Minister Dion that a complaint was made and that it must be considered extremely seriously. I am also pleased with the recent announcement of the new Institut de Moncton, which will, I hope, ensure that languages flourish in this country, in particular, the minority languages: French in most provinces and English in the Province of Quebec.

• (1440)

[Translation]

**Senator Nolin:** Madam Minister, it would appear that this is not a recent situation and that it has been dragging on for some time. This is not an isolated complaint. The phenomenon is apparently widespread. Could the minister ask the minister responsible for Canada Post about the measures being taken to

ensure that the basic language rights of Atlantic Canadians are being respected in law and in fact?

[English]

**Senator Carstairs:** Honourable senators, I thank the honourable senator for his question. I will raise this matter not only with Minister Dion, whom I know has a particular interest; but also with Minister Manley, who is specifically responsible for Canada Post.

## HEALTH

### PROPOSED DRUG MONITORING AGENCY

**Hon. Marjory LeBreton:** Honourable senators, my question is addressed to the Leader of the Government in the Senate. Apparently, Health Canada plans to announce the creation of a new organization to increase the effectiveness of drug monitoring after the drugs have been approved for sale. Last year, the Canadian Medical Association demanded that Health Canada set up such an organization. The department is responsible for ensuring that drugs are safe for doctors to prescribe. Two years ago, an Oakville teenager, Vanessa Young, died after taking the stomach drug prepracid. It has since been pulled off the market.

Can the Leader of the Government tell us when this drug monitoring agency will be set up?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, the honourable senator raises a serious issue. A coroner's report has indicated that we must have far greater monitoring of prescription drugs that are put on the market and keep accurate records of their side effects. My understanding is, that action is now underway.

**Senator LeBreton:** Honourable senators, the Canadian Food Inspection Agency has inspection programs to ensure food safety. However, it is unclear what powers this drug monitoring agency will have. Can the minister — and she has indicated it somewhat in answer to my first question — tell us what powers the agency will have and whether it will be an organization similar to the Canada Food Inspection Agency?

**Senator Carstairs:** Honourable senators, I do not have that exact information available for the honourable senator today. The 14 jury recommendations that were made on this issue and directed at Health Canada have been receiving careful consideration. Health Canada is working to improve the post-market surveillance program. On April 1, 2002, which is approximately 10 days from now, Health Canada will open a new directorate with responsibility for post-approval activities. This new directorate will improve Health Canada's capacity. As to whether it will have the full ability of the agency to which the honourable senator made reference, I cannot answer that at the present time.

## AGRICULTURE AND AGRI-FOOD

### DECLINE IN NUMBER OF FARM WORKERS

**Hon. Leonard J. Gustafson:** Honourable senators, recent statistics continue to underscore the difficulties facing our farmers in Canada. For instance, between 1998 and 2001, Canada



lost more than one-quarter of its farm workers. This fact was revealed in a recent Statistics Canada survey and it is the largest decline in the number of farm workers in 35 years.

Could the Leader of the Government in the Senate please tell us what her government's thoughts are on these very serious trends?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, first, we should be careful about that statistic. Yes, there was an indication that the number of farmers who were listing farming as their major source of income had declined by 26 per cent. However, it is not quite accurate to say that there were one-quarter fewer farm workers. The regrettable part — and I think Senator Gustafson would agree — is that more and more farmers are having to seek off-farm employment opportunities and can no longer depend totally on their farm income as the source of their viability as an economic unit.

In terms of what the government is doing specifically, as the honourable senator knows, the provinces and the federal government have signed an agreement to work together. They had meetings before Christmas. They are having meetings. I believe this month, in order to come up with long-term plans for the agriculture sector in Canada.

**Senator Gustafson:** Honourable senators, does the minister feel that it is fair that farmers must work at two jobs, working for 16 or 18 hours a day, while people in other walks of life can work at one job and make a decent living?

**Senator Carstairs:** Honourable senators, no, I do not think that is the ideal way in which our agricultural community should survive in this country. Obviously, great stress is placed on farm families when that occurs. That is why the federal government is working together on an agricultural policy framework.

#### NEW AGRICULTURAL POLICY TO IMPROVE SAFETY NET PROGRAMS

**Hon. Leonard J. Gustafson:** Honourable senators, in the recent speech to the Saskatchewan Association of Rural Municipalities, the federal Finance Minister tried to alleviate the concerns of farmers by explaining that the federal government is working with the provinces to develop a new agricultural policy intended to improve the safety net programs. However, it is my understanding that the crux of this new policy will focus on issues of environmentally responsible farming and food safety. In fact, most analysts doubt that the new policy will contain any new aid for programs to help combat low commodity prices.

Has the minister any thoughts in this area?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I can only say that I understand that the discussions taking place between the federal and provincial agriculture ministers is broadly based, that it is not limited only to the few areas that the honourable senator has indicated and that the consultations will expand and intensify literally over the next few days.

[ Senator Gustafson ]

[Translation]

### DELAYED ANSWERS TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table the delayed answers to two questions. The first one was raised in the Senate on March 7, 2002, by Senator Jean-Robert Gauthier, regarding linguistic rights, and the second one was raised in the Senate on February 20, 2002, by Senator Pierre Claude Nolin, regarding the modernization of the Armed Forces equipment.

### JUSTICE

#### FEDERAL COURT DECISION—MAINTENANCE OF ESTABLISHED LINGUISTIC RIGHTS—INTENTIONS OF GOVERNMENT

*(Response to question raised by Hon. Jean-Robert Gauthier on March 7, 2002)*

The Contraventions Act is a statute that aims at simplifying and facilitating the prosecution of federal offences found in federal laws and regulations. The purpose of the agreements signed pursuant to the Contraventions Act is the implementation of the Act and not the enforcement of federal laws and regulations.

Since Ontario has formally committed itself to continue working to comply with the Federal Court judgement in *Commissioner of Official Languages and Her Majesty, the Department of Justice* has sought an extension of the time frame imposed by the Court.

If such an extension is granted, the Department of Justice and the Ministry of the Attorney General of Ontario will pursue actively their solving of the issues raised in the judgement.

In the event of a failure of the negotiations pertaining to the signing, within the additional period that could be granted by the Court, of an agreement that would comply with the original Federal Court decision, the Government will suspend the application of the Contraventions Act in Ontario and will return to the summary conviction process of the Criminal Code for the prosecution of contraventions other than parking contraventions.

### NORTH ATLANTIC TREATY ORGANIZATION

#### MODERNIZATION OF ARMED FORCES EQUIPMENT TO MEET OBLIGATIONS

*(Response to question raised by Hon. Pierre Claude Nolin on February 20, 2002)*

The government's investment in the military is already substantial and should not be assessed solely from last budget perspective. The Department of National Defence has base funding this year of more than \$11 billion.

Under the government's fiscal framework, that funding is increased automatically over time in line with increases in public sector wages DND's base funding is increased annually by an automatic 1.5 per cent to protect Defence from rising costs.

Moreover, the government has made substantial investments in the military. The last two budgets have added greatly to DND's funding:

\$700 million of the base funding this year was provided in those two budgets, and by 2004-2005, that number will have risen to more than \$800 million per year.

By the end of this fiscal year, those budgets will have added \$2.5 billion cumulatively to the defence budget, and they will add another \$3.9 billion in the next five years.

All told, in the last three budgets the government will have invested a total of over \$7.6 billion in the military by 2006-07.

[English]

### VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in the gallery of Jean Gleason, Hammond Dick, Sam Donnesey, Clifford McLeod, Leslie Smith and Dixon Lutz, all elected representatives of First Nations in the Yukon.

On behalf of all senators, I welcome you to the Senate.

**Hon. Senators:** Hear, hear!

[Translation]

## ORDERS OF THE DAY

### ROYAL ASSENT BILL

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Carstairs, P.C., seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-34, An Act respecting royal assent to bills passed by the Houses of Parliament.

And on the motion in amendment of the Honourable Senator Grafstein, seconded by the Honourable Senator Ferretti Barth that the Bill be not now read a third time but that it be amended in clause 3 by adding the following after subsection 2:

3(3) The signification of royal assent by written declaration may be witnessed by more than one member from each House of Parliament.

**Hon. Serge Joyal:** Honourable senators, it is an honour for me to speak to you briefly about why I am supporting not only the principle and the content of Bill S-34, but also the amendment introduced by our colleague, Senator Grafstein.

[English]

First, I should like to express the pleasure I had to work with the honourable members of the Standing Committee on Rules, Procedures and the Rights of Parliament under the chairmanship of Senator Austin and the various witnesses and participants who attended the various meetings of that committee.

• (1450)

It might appear almost trivial in the minds of some observers, that it took us many hours and much reflection to come forward with a bill after many attempts by various members of this chamber. I bow to Senator Murray, who considered the issue, and, of course, I cannot but recognize the various attempts made by Senator Lynch-Staunton to finally bring the issue to a positive conclusion.

I should also like to commend the government leader for the government's initiative of making the proposal of Senator Lynch-Staunton a government bill. That being said, it did not mean that the work was complete. Today, when I was reading *The Hill Times*, I noticed a headline that read: "Royal Assent goes modern." It seems that our procedure is antiquated, of another age, or that we are an oddity in the sphere of the Commonwealth countries, because our Royal Assent has not varied through the 135 years of our Confederation.

I should like to remind honourable senators that the issue of Royal Assent involves a very important constitutional element, and Professor David Smith outlined this very clearly when he appeared at our committee's hearings last fall. He said the following:

The time of Royal Assent is when the Queen-in-Parliament makes law. Then the representative of the Crown personifies the nation; the Senate embodies the federal principle; and the Commons represents the people through their representatives. One may dispute the description of the parts, but not the parts themselves, nor their inclusion in a manner visible to all.

Royal Assent is provided for in section 91 of our Constitution. Its introductory clause states:

It shall be lawful for the Queen, by and with the Advice and Consent of the Senate and House of Commons, to make Laws for the Peace, Order, and good Government of Canada, in relation to all Matters not coming within the Classes of Subjects by this Act assigned exclusively to the Legislatures of the Provinces;

That means that the Crown, the Queen, is an essential part of the legislative process in Canada, and it personifies the nation. The Constitution is not silent on the way the prerogative of the Queen should be exercised. In fact, sections 55, 56 and 57 of the Constitution provide the cases where the Queen, or the representative of the Queen, can withhold consent to Royal Assent. Even though it has rarely happened in the past, and if it were to be used it would create a major constitutional crisis, there is no doubt that those powers are still in our constitutional statute.



What is the constitutional status of Royal Assent? Royal Assent exists substantially in the Constitution. What the Constitution does not provide is the way Royal Assent is given. Traditionally, Royal Assent has been given through the physical presence of the representative of the Queen, either the Governor General or his or her delegate, a justice of the Supreme Court of Canada. Traditionally, the Queen's representative attends in this chamber and nods to the concurrence of both legislative Houses having adopted a specific bill. In other words, there is no provision in the Constitution that explains or describes the process.

The process is essentially a matter of convention; that is, it is not written. What is a convention? There is an interesting quote from a group of learned professors from Laval University — and my colleague Senator Beaudoin will certainly nod to this. When can we say that there is a convention?

[Translation]

I quote from our constitutional law text, second edition, on page 45:

Three conditions have to be met...

for a constitutional convention to exist.

[English]

There are to be three conditions for a convention to exist. The first one is as follows:

[Translation]

...there must be precedents.

[English]

It means that the gesture, the attitude, has to be repeated not once, but multiple times.

The second condition is as follows:

[Translation]

...the actors must believe to be bound by a rule;

[English]

In other words, those who repeat those things have to appear to be bound by it.

The third condition is stated as follows:

[Translation]

...and there should be a reason for the rule.

[English]

In other words, there should be a reason for this.

[ Senator Joyal ]

That is the nature of a constitutional convention. That is how, traditionally, our Royal Assent has remained the same. The concurrence of those three elements has been confirmed repeatedly over the last 140 years, in the way Royal Assent has been given in this chamber. Those aspects are fundamental to the understanding of our Constitution.

If it is a convention, is it meaningless? I would submit, honourable senators, that conventions are part of our constitutional order. The Supreme Court of Canada, in many instances, has ruled that conventions are part of the Constitution. I should like to quote from the ruling in the *Reference re: Secession of Quebec*. The court said, at paragraph 32, the following:

[Translation]

...the global system of rules and principles which govern the exercise of constitutional authority in the whole and in every part of the Canadian state.

These supporting principles and rules, which include constitutional conventions and the workings of Parliament, are a necessary part of our Constitution...

[English]

This is the constitutional convention that is part of our constitutional order. It is important, if we want to change this, to question — as members of the committee have done during the hearings and debates that followed the introduction of the bill by the government leader, and the alternative proposals that our colleague, Senator Grafstein, has tabled at the committee — the essential elements of the procedure we follow presently.

In my opinion, there are at least three elements. First, there is the presence of the Governor General, or his or her delegate. Thus, there is a physical presence. Second, it must be transparent. Both Houses of Parliament attend that element of consent of the Governor General, or his or her delegate. Third, of course, it is public. Anyone can, outside the members of Parliament from both Houses, attend that element of the nodding, of the consent given.

What does Bill S-34 do? It provides an alternative to the convention we have followed up to now. What is the alternative? It is in the form of a written declaration.

Honourable senators will ask: What changes in the three elements have you just given? The first element is that it is still the person; it is still a personal act. It is still coming from the person who happens to be, according to the Constitution, the Governor General or his or her delegate. That person is chosen by the Governor General according to the Letters Patent, and Bill S-34 does not change that. According to the Letters Patent, the Governor General retains the same power to choose the person he or she wishes to appoint for the exercise of that responsibility. This is still a personal act.



• 15 •

Transparency is less obvious in the bill as it is written now, and that is why I support the amendment of Senator Grafstein. The transparency is that the written declaration will no longer be performed within the precincts of the Senate. The written declaration will be performed in a private office, whether the residence of the Governor General; the office of the delegate of the Governor General, who has traditionally been a justice of the Supreme Court; or someone else down the road who the Governor General, according to the Letters Patent, may decide to appoint for the specific exercise of that constitutional responsibility of the Governor General. In other words, Royal Assent will be done in private.

According to clause 4 of the bill, notice of Royal Assent is given to both Houses. The bill, as presently written, is less transparent than when the Governor General, or his or her representative or delegate, comes into this chamber.

The amendment that Senator Grafstein has introduced is not a new amendment. Members of the committee discussed that aspect of the work extensively. Some committee members thought that the written declaration could not happen without the presence of a representative from both Houses. We set aside that proposal. We thought it was too stringent. However, the proposal of Senator Grafstein that was discussed in committee, as introduced by Senator Cools, is a sound and permissive proposal. It allows at least one member from each House to be present. Neither the Governor General nor his or her delegate is compelled to request the presence of the representative of either House in order to give the written declaration. However, any of us would be able to request to be present when the bill is assented to by the Queen's representative or his or her delegate. Essentially, we want to maintain flexibility in the procedure.

Honourable senators, some research has been conducted on this subject. Up to 1885, the Governor General always gave Royal Assent to bills himself. In the early years of Canada's history, parliamentary sessions were very short. The session would typically last for one or two months and the Governor General would traditionally give Royal Assent at the opening and closing of the session.

Through the years, parliamentary sessions have been extended. Various governments wished to give Royal Assent to pressing legislation, especially in situations of immediate implementation. In these cases, the Governor General could not always be present, and from 1885 onward, the Governor General started to appoint delegates.

**The Hon. the Speaker:** Honourable senators, I regret to advise Senator Joyal that his 15 minutes have expired.

**Senator Joyal:** Honourable senators, within three minutes I would be able to conclude my remarks.

**The Hon. the Speaker:** Honourable senators, is leave granted?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, it is simply a matter of allowing the Honourable Senator Joyal to conclude his remarks.

[English]

**Hon. Senators:** Agreed.

**Senator Joyal:** Thank you, honourable senators.

The frequency of the ceremonies started to multiply. The multiplication of the ceremony meant that the Governor General could not be present and therefore started to delegate that responsibility. That event triggered the justices of the Supreme Court to become involved in the legislative process.

Bill S-34 responds to those two needs in a perfect respect of our constitutional principle. I urge honourable senators to support the amendment because it is important that flexibility and transparency be maintained. That is a fundamental element of a democratic system and is well served by the bill as amended by Senator Grafstein.

**The Hon. the Speaker:** Honourable senators, is the house ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

**Hon. Anne C. Cools:** Honourable senators, I rise to speak at the third reading stage of Bill S-34.

Although there is no time for this today, I would love to challenge Senator Joyal on several of the issues he raised, including what he said about the definition of "conventions." It is my clear understanding that the ancient Royal Assent ceremony, which we have held until now, was the meeting point of the law of Parliament, the *lex parliamenti*, and the law of the King, the *lex prerogativa*, and is not related to the issue of conventions.

We can debate that at some other time. Conventions are a very troublesome area. They govern the exercise of power and the relationship between cabinet and Parliament. Therefore, it is not quite the same thing.

I should also like to make the point that until 1947 or 1948, the Governor General of Canada kept an office in the East Block. I hope that with the passage of this bill we may see our way to re-establishing that office, perhaps even the same historical office.

Honourable senators, most senators here know that I am an ardent supporter of the monarchy, particularly the constitutional monarchy here in Canada. I fervently believe that it is the highest achievement of constitutionalism.

Constitutional monarchy embodies the special and unique personal and political relationship that the monarch, Her Majesty, possesses and holds with each and every individual subject citizen. It is a relationship wrapped in the duty of allegiance owed by each to Her Majesty, the sovereign, and the duty owed by the sovereign to each individual subject citizen.

I was reminded of this last Friday, honourable senators, March 15, 2002, when I attended the luncheon held by His Honour James Bartleman, the Lieutenant Governor of Ontario, in honour of His Royal Highness Prince Michael of Kent, and again on Friday evening when I was honoured to be a head table guest at a dinner in Toronto for His Royal Highness hosted by the Monarchist League of Canada.

Honourable senators will know that His Royal Highness Prince Michael of Kent is the first cousin of Her Majesty Queen Elizabeth II. His father and Her Majesty's father, King George VI, were brothers.

• 1510

Honourable senators, my intervention today is to record here a matter of great importance. This bill has been around for some years now in its various incarnations. It is now Bill S-34, and in other sessions it had been S-7, S-15 and then S-13. At all material times, and in all my interventions, I have insisted that this bill required a Royal Consent, that it required the involvement and agreement of Her Majesty's representative in Canada, the Governor General of Canada, Her Excellency Adrienne Clarkson. This constitutional fact was either unknown or ignored here by many senators.

I repeatedly read and recorded here Her Majesty Queen Elizabeth II's Royal Consent as signified in 1967 in the United Kingdom, both in the House of Lords by the Lord Chancellor Lord Gardiner and in the House of Commons by the Attorney-General Sir Elwyn Jones. I quoted the significations word for word. I draw attention to my speeches here on December 1, 1999, and, particularly, my speech on this bill when it was Bill S-13, on May 2, 2001. I said, at *Debates of the Senate*, page 757:

I absolutely insist that this bill needs the involvement, consent and approval of Her Excellency, Governor General Adrienne Clarkson, prior to its introduction and debate here.

In that same speech, I also said:

The Senate and the bill's sponsor, Senator Lynch-Staunton, have a duty to proceed with proper and due regard to these vital parliamentary and constitutional principles, with due regard to Parliament's law and with the respect and allegiance due to Her Majesty and her

representative in Canada, Her Excellency, the Right Honourable Adrienne Clarkson.

Honourable senators, the Senate owes Her Excellency the Right Honourable Adrienne Clarkson the proper respect and dignity. Her Majesty's representative should receive no less from this chamber.

...It is my intention not to vote on this bill until I receive an indication that Governor General Adrienne Clarkson is involved in some way or other in this pressing matter of Royal Assent in Canada.

Honourable senators, I meant that most sincerely. I honoured my commitment at the time because I felt very strongly that such a bill could not and should not dare to proceed without Her Excellency's approval at the outset.

Honourable senators, I felt very affirmed and gratified when last fall the Government Leader, Senator Sharon Carstairs, introduced this bill as Bill S-34, which it now is and when, prior to its second reading, she rose and indicated that the Royal Consent had been signified. On October 4, 2001, Senator Carstairs, in *Debates of the Senate*, at page 1379, said:

I have the honour to advise this House that:

Her Excellency the Governor General has been informed of the purport of this bill and has given consent, to the degree to which it may affect the prerogatives of Her Majesty, to the consideration by Parliament of a Bill entitled "An Act respecting royal assent to bills passed by the Houses of Parliament."

I further note that, in her same speech, while not mentioning me, she cited Lord Gardiner in the United Kingdom's House of Lords. I felt justified by Senator Carstairs' close reading of my speeches and by her acceptance, as I had proposed, of the constitutionally correct course of action, which was to obtain Her Excellency's Royal Consent prior to second reading.

Honourable senators, the Royal Assent, the actual enactment of bills into laws, is the quintessential point in Parliament. It is the culmination of the process, its highest point and, simultaneously, it is the meeting point, the union of the three estates of Parliament in their seminal role.

Honourable senators, the Prime Minister represents the state of politics of a country, but Her Majesty the Queen, through the Governor General, represents the state of the country itself and its people themselves. That is why she is the Head of State.

Honourable senators, I wish to say the following. When I came to this place, this Senate, I took the Oath of Allegiance. I believed it then and I believe it now. I am not a republican, as is our Leader of the Opposition, Senator John Lynch-Staunton, who was the originator of this bill in previous sessions. I have been claimed by my background, my culture, my own study, the constitution of my personality and by the cast of my mind.



In conclusion, I should like to say that the monarch Her Majesty, as Queen in Canada, is no mere empty form or ornament: Her Majesty is the source and authority of all power. About the Royal Assent, many misrepresent it, decrying its constitutional importance and relegating it to mere sentiment, but the Royal Assent is no sentiment.

I close by recording here a statement from Benjamin Disraeli on this subject. In his 1852 book entitled, *Lord George Bentinck: A Political Biography*, Mr. Disraeli describes the true force and meaning of the Royal Assent by the Queen. Remember that this man was not the Prime Minister of the United Kingdom at the time. He wrote:

As a branch of the legislature whose decision is final, and therefore last solicited, the opinion of the sovereign remains unshackled and uncompromised until the assent of both houses has been received. Nor is this veto of the English monarch an empty form. It is not difficult to conceive the occasion, when supported by the sympathies of a loyal people, its exercise might defeat an unconstitutional ministry and a corrupt parliament.

That is the true and profound meaning of the Royal Assent in which Her Majesty embodies the subjects and the citizens of the whole realm, over and above each of the two Houses of Parliament.

When I was a child, I was told that the difference between republicans and monarchists is that monarchists do not aspire to be King or Queen because the occupant of that position has been settled by history. However, with republicans, everyone knows that in the United State of America every shoeshine boy and every other person wants to be president. That is why I am a supporter of the monarchy, because the question of this high power is settled historically.

When I was a little girl, a schoolmistress of mine used to tell me, "Beware of any man who wants to be King. Beware of men and women who would be King or Queen." Honourable senators should ponder on that.

Honourable senators know the dangers to modern Commonwealth democracies that are being posed by modern cabinets and governments themselves, particularly with the ascendancy of the universal primacy all over the world of the Prime Minister's Office and also with the ascendancy of unelected bodies in policy matters, such as the Supreme Court of Canada. Canada's famous constitutionalist, Professor Arthur Lower, cautioned of the danger of absolutism in cabinet government. In his 1958 book entitled, *Evolving Canadian Federalism*, Professor Lower wrote:

Most people would content themselves with saying that Canada is a monarchy and that the monarch's ancient attributes give us theory enough: 'the King is the fount of justice'; 'the King can do no wrong'; et cetera. But what if the Cabinet became King, with both King and Constitution in its hands?

That is the inherent danger of absolutism in cabinet government.

Honourable senators, I thank Her Excellency the Governor General of Canada, Adrienne Clarkson, and Her Majesty Queen Elizabeth II of Canada. I uphold her and I celebrate her in this year of her Golden Jubilee. About her I say, God bless the Queen. God save the Queen.

Honourable senators, I should like to close by reading a particular stanza — very rarely used — of *God Save the Queen*, now the Royal Anthem, which states:

O Lord our God arise,  
Scatter her enemies  
And make them fall.  
Confound their politics  
Frustrate their knavish tricks  
On Thee our hopes we fix  
God Save us all.

Long may she reign over us.

**The Hon. the Speaker:** Is the house ready for the question?

**Hon. Senators:** Question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill, as amended, read third time and passed.

•(1520)

## CRIMINAL LAW AMENDMENT BILL, 2001

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Pearson, seconded by the Honourable Senator Poy, for the third reading of Bill C-15A, to amend the Criminal Code and to amend other Acts, as amended.

**Hon. Anne C. Cools:** Honourable Senators, I rise to speak to third reading of Bill C-15A. I shall confine myself to the issue raised by clause 71 of this bill, being the particular clause that amends the Criminal Code, section 696. The issues of this clause and the parent Criminal Code sections are the issues of the miscarriage of justice. It seems that daily our newspapers report on more miscarriages of justice, wrongful convictions, and wrongful prosecutions. The very famous cases, usually cases of homicide and murder, punctuate our consciousness. We are all aware of the cases of Guy Paul Morin and Donald Marshall. Clearly, correction is needed. Toronto's excellent, accomplished criminal lawyers like Alan Gold, Morris Manning and Edward Greenspon have raised these questions publicly and have repeated their concerns numerous times.



Honourable senators all know that I thought that the powers of the Minister of Justice, under this clause, should be wide so as to permit the minister to choose the best and the most able persons to conduct those reviews. I also believe that the minister should consider for appointment not only lawyers, but other professionals, including coroners, forensic pathologists, ex-chiefs of police and former parliamentarians. However, today I am speaking to a different point.

Honourable senators, I wish to raise the question of the dominion and the domination of ideology, particularly radical feminist ideology and its consequent distortion and mischief in the administration of justice, in both the criminal law and civil law, but particularly in the criminal law. I refer to the plethora of problems that have flowed from the premise of the radical feminist ideological posture that all men are beasts and that all women are victims; that women are morally superior to men; that men are morally inferior to women or that men are somehow morally defective; and the proposition that men are inherently liars and that women are inherently truth tellers.

Honourable Senators, I am speaking of the plethora of wrongful convictions and prosecutions in sexual and physical abuse that have flowed from the misguided premises of the recovered memory movement — now discredited, thank God — the sexual assault witch hunts, the misguided and one-sided zero-tolerance domestic violence policies directed at male offenders but not at female offenders, and other ideologically based phenomena. I hope that the new Minister of Justice will turn his mind to these problems, which are of some enormity. I shall cite a few cases.

The first is the case of *Regina v. Nelson*. James Nelson, now about age 34, was convicted in 1996 of several assault and sexual assault charges and served about three and one-half years in prison. Last August 23, 2001, there was an about-face. In a short, one-paragraph judgement, the Ontario Court of Appeal allowed Mr. Nelson's appeal, set aside his conviction and granted him an acquittal. In this exceptional and unusual step, the Court of Appeal, in judgement delivered by Mr. Justice Laskin, said:

The proposed fresh evidence meets the test in *R. v. Palmer* and shows that the trial proceedings resulted in a miscarriage of justice. Although ordinarily we would order a new trial, in this case we enter an acquittal because of the Crown's acknowledgement that there is no reasonable possibility of a conviction and because the appellant has largely served his sentence. Therefore the appeal is allowed, the conviction is set aside and an acquittal is entered.

An acquittal was entered. The entire text of the judgment is that one paragraph. This case is exceptional because Mr. Nelson's accuser is a woman named Cathy Fordham, a close friend of Mr. Nelson's ex-spouse, who at the time was in a child custody battle with Mr. Nelson.

There are many press articles about this matter. I commend one article particularly, which is the *National Post* article of

September 8, 2001, by Christie Blatchford, headlined "Crying Wolf: In a system that assumes children don't lie and women are victims, false allegations happen with alarming regularity and frequency." Miss Blatchford interviewed Detective Wendy Leaver and reported the following:

The fact is, as Detective Leaver said, some women enjoy the process. 'It's a sex assault,' the veteran investigator said, 'and as a society, we accept that as horrendous. You wouldn't believe the attention we pay to you.' And some women are outright malicious, and see a rape claim as a way to punish a boyfriend or a former spouse, especially if they are locked in a custody or support battle, and some are mentally ill.

Honourable senators, compare that one paragraph in the 2001 judgment of Mr. Justice Laskin to the harsher and tougher words of Provincial Court Judge Fraser, in Ontario Provincial Court, on the same man, Mr. Nelson, a few years before, on November 14, 1996. Judge Fraser said:

Further, to offer additional protection to the complainant, due to the fact that this is now the third time that this individual is being sentenced for criminal behaviour involving this complainant, I am going to, for the reasons stated — the repeated contact with this individual, the need for specific deterrence of Mr. N. — order that this offender not be released on full parole until at least one-half of the sentence has been served.

Judge Fraser waded into the area of parole. All of this was to protect this complainant, the alleged victim, who has since been revealed to be a chronic and accomplished malicious liar, and who now stands charged and convicted with public mischief arising from this case and others.

Honourable Senators, every time I read one of these cases, and I read many, I continue to wonder at how and why so many courts, judges and crown prosecutors have allowed themselves to be so deceived by the radical feminist ideology which says that women do not lie and that every male is a potential rapist.

Honourable senators, human goodness like human vice is not a gendered characteristic. They are human characteristics. Men and women are equally capable of virtue and are equally capable of vice.

●(1530)

Justice must be blind to unscientific, artificial and unproven ideological notions of human behaviour. Justice has to look at the facts and the law, and therein make its judgment, because judgment should not be based on gender or gender notions of behaviour.

Honourable senators, the record is peppered with these cases. These are all miscarriages of justice. They are not homicide cases, they are not as spectacular as the *Guy Paul Morin* case, but there are many of these individual cases.

I come now to certain cases of wrongful prosecutions, of which there are many, but which thankfully, though difficult for the accused, ended in acquittal.

I wish to cite the Provincial Court of Alberta, June 22, 1998, case in *R. v. Ghanem*. Mr. Ghanem had been charged with assaulting his wife, a domestic assault. He was tried and acquitted of this particular charge. Mr. Ghanem's wife had charged him in an effort to imperil him and to ensnare him in their divorce proceeding. This fact is very well documented in the judgment.

It seems that Mr. Ghanem was elsewhere when the assault was supposed to have taken place. Apparently, it turns out, he was in another place with other people. He had an alibi. Judge Fraser writes about the investigation and the lack of an alibi, saying:

It was also disclosed to the police officer immediately upon being told of the allegations. The officer chose not to investigate the alibi and instead just laid the charge. Apparently he didn't feel he had any responsibility to do so.

Judge Fraser, in his reasons for acquitting Mr. Ghanem, said the following:

I find the evidence of the complainant and her mother to be contradictory, confusing, contrary, conflicting, irreconcilable and quite frankly, false.

Judge Fraser was emphatic about the falsehood. Then Judge Fraser turned his mind to the question of zero-tolerance policies for domestic violence. He said:

I want to make two further comments because one is curious as to how a man could be falsely accused in these circumstances right up to and including a trial. The reasons are quite clear to me and disturbing. First, the police apparently have a policy of zero tolerance in domestic assault cases. Any zero tolerance policy is dangerous. It is especially dangerous when it is not properly applied. If the police consider zero tolerance means laying a charge whenever they receive a complaint, they are incorrect. The power to arrest and lay charges is an awesome power. Used incorrectly it is oppressive to the public. Complaints must be investigated. An officer doesn't automatically have reasonable grounds just because someone makes a complaint of domestic abuse.

Honourable senators, these cases of wrongful physical and sexual abuse prosecutions abound and are compelling investigations. In previous speeches in this chamber, I have spoken to the issue of false accusations. However, I spoke on false allegations made in civil proceedings, usually child custody disputes in which no criminal charges were laid or prosecutions ensued. In those speeches in this chamber, I have recorded dozens of those cases, adjudicated cases citing the judges' findings, for example, as in my speech of February 17, 2000.

These cases were false accusations of mostly child sexual abuse and some physical abuse used as a strategy to obtain sole

custody in judicial proceedings and in divorce proceedings. However, earlier today I have been speaking to criminal charges and criminal proceedings.

Honourable senators, time does not permit me to cite more cases. However, I should like to make a very special appeal here to the Minister of Justice under this clause in the bill to say to him that these matters are compelling investigation. I wish to take this opportunity to urge the Minister of Justice to direct his mind to these problems and to this subject matter. I also take the opportunity to urge him to promote the notion that the administration of justice should eschew radical feminist ideology.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

It was moved by the Honourable Senator Pearson, seconded by the Honourable Senator Poy, that this bill as amended be read a third time now. Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill, as amended, read third time and passed, on division.

## PAYMENT CLEARING AND SETTLEMENT ACT

### BILL TO AMEND—THIRD READING

**Hon. George Furey** moved the third reading of Bill S-40, to amend the Payment Clearing and Settlement Act.

He said: Honourable senators, I have nothing to add other than what was said at second reading, except to say that the bill was reported back on March 14. It received the support of industry, finance and members opposite.

I had understood earlier that Senator Angus may have wished to speak, but at this time, if he is not here, I would suggest that we just move forward.

Motion agreed to and bill read third time and passed.

## YUKON BILL

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Ethel Cochrane:** Honourable senators, I am pleased to have the opportunity to speak on Bill C-39 once again.



At its fundamental level, this bill modernizes the language of the present act and aims to put the decision-making power in the hands of those it most directly affects, the people of the Yukon.

It also puts into law the form of responsible government that has been practised in the territory for more than 20 years and articulates more clearly the concepts outlined in the Epp letter of 1979.

The devolution of power has been a long process and has spanned decades. The importance of this bill to the Yukon cannot be overstated. It means that decisions affecting the territory and her resources will be made locally, not by a politician or a bureaucrat sitting in Ottawa. This proposed act marks the latest and one of the most significant steps in the territory's political evolution.

It must be a very special honour for Senator Christensen to stand as sponsor of this bill. Today, her work has come full circle, and I commend her for her dedication and her tireless efforts on behalf of the people of the Yukon, Aboriginal and non-Aboriginal, today and in the decades past.

Indeed, there are many strong arguments to be made in support of this bill. First and foremost, the bill modernizes the statutory language relating to Yukon's governmental structure so that it better reflects the practice of responsible government. This is essentially putting into law the approach to government that has been in practice since the late 1970s. The bill also sends a positive message to resource developers and businesses regarding the territory's economic climate. Consider, for instance, its likely contribution to the development of the local mining industry. Bill C-39 will eliminate bureaucratic obstacles and open the door for Yukon-made regulations. This will provide greater regulatory certainty and eliminate duplication — factors so crucial to fostering the development of this industry in particular.

•(1540)

Perhaps more important, however, this bill brings the people of Yukon into closer contact with the government structures that are there to serve them. Essentially, it gives them the power to be masters of their own destiny, similar to the powers enjoyed by the provinces. The bill contains a number of features that publicly acknowledge past successes in managing local resources. It also indicates the level of respect held for the abilities of the Yukon government in handling Yukon business. Under the new Yukon Act, for example, the minister is required to consult with Yukon representatives — the Executive Council — before introducing legislation that would have the effect of amending or repealing the Yukon Act.

The territorial government will also become responsible for operating the Northern Affairs programs currently controlled by DIAND. The Yukon government will receive \$34 million a year from Ottawa to help cover the cost of running these programs.

Of course, the importance of this legislation is providing job security for the federal government employees in Yukon, and that is another important consideration in support of this bill.

Passing this bill will mean that job offers from the Yukon government can be made to these federal employees. This will also allow for everything to be in place to accommodate the smooth transfer of power to the territorial government.

When I spoke at second reading, I voiced my support for the bill. However, I noted the absence of some Aboriginal voices in discussions in Ottawa and the consultation process. I am pleased to be able to say that the Standing Senate Committee on Energy, the Environment and Natural Resources heard from some of those concerned Aboriginal communities. I am especially satisfied that they were given a forum to discuss their reservations with this bill and state their concerns for the record. The testimony of the Kaska Nation and the Carcross/Tagish First Nation was insightful and a crucial element in our understanding of the implications of the bill. Above all, it was an opportunity for us to hear the thoughts and reactions of local people firsthand.

In her remarks last week, Senator Christensen highlighted some of the valid questions and major concerns raised by the Standing Senate Committee on Energy, the Environment and Natural Resources. While the committee was not afforded the opportunity to have the minister appear on this bill, Senator Christensen relayed his response in her last speech. I accept the response offered by the minister. However, I also feel compelled to reiterate the primary concerns of these witnesses.

Recently, we heard from both the Kaska Nation and the Carcross/Tagish First Nation that they had made significant progress in their negotiations. In fact, they were relatively confident they could complete negotiation of their final agreements within six to eight months. Surely, after decades of discussion, this shows they are indeed very close to resolving these historically significant issues. Clearly, this is positive news.

However, I am gravely concerned that the mandate will expire March 31, 2002, and that Aboriginal negotiators have been informed that if the substantial items have not been finalized by that date, there will be no more negotiating. The crux of their arguments is that Canada has a constitutional obligation to settle with all Yukon First Nations prior to transferring the administration and control of all public lands to the Yukon government. Their concern is that Bill C-39 fails to make clear that the Yukon government is not acquiring jurisdiction over the administration and control of lands where Canada's obligations under the Rupert's Land and North-Western Territory Order of 1870 remain unfulfilled.

They also take no comfort in the take-back land provisions. In their presentation to the committee, representatives from the Kaska Nation told us that they think, and I quote:

...the appropriate course for Canada is to maintain administration and control until the claims are settled and not hold out any false prospects that they will be taking land back.



They raise a reasonable point in acknowledging concern over the take-back land provision. It would appear difficult, in a hypothetical situation, for the federal government to take back lands after a territorial government had granted third party rights. As the committee was told, there are major questions about the resources of Yukon and its ability to pay out the amount of compensation that would be required to remedy such a violation. As they indicated, a situation such as that would place particular pressure on Yukoners to cover the costs of compensation.

A final point that the witnesses addressed was the language in the non-derogation clause. This was a contentious issue with regard to another bill that the committee recently studied. The Kaska Nation highlighted this point in reference to Bill C-39, saying they would be better off having no non-derogation clause at all than having it as it is currently expressed.

I trust, however, the Government of Canada will remain true to the spirit of, and its obligations arising from, the 1870 order. I am confident that these claims will be settled in good faith by all parties involved and that this bill will in no way infringe upon that process.

It cannot be denied, nor should it be overlooked, that concern exists at the local level over this bill. While Aboriginal groups were particularly effective in communicating their dissatisfaction with the proposed legislation and making compelling arguments, there are other indications of displeasure with the bill. For instance, local media and the official opposition party in Yukon have cited supposed shortcomings of the bill. However, their arguments primarily deal with issues surrounding transparency and the process involved in drafting the legislation.

In hearing these latter concerns, I am reminded of the old saw: "You cannot please all people all the time." This bill to me is like that. On the one hand, some people say it goes too far, while, on the other hand, others say it does not go far enough.

Some critics have argued that Yukon should have outright ownership of its land. This legislation falls far short of doing that. However, it will see Yukon gain the power to do most of what the provinces can do. The territory will be able to sell and lease land. It will be able to decide what type of development takes place on property through its power to issue permits.

Perhaps more significantly, the territory will retain the money made from sales and leases of Yukon water, Yukon land and Yukon resources. Basically, as a result of this bill, decision-making power with regard to land, minerals and water in the Yukon Territory will rest firmly in the hands of the people and the Government of Yukon, as it should, I believe.

Honourable senators, it has been said before, but I believe it warrants repeating: This bill received the overwhelming support of all parties in the House of Commons. I believe this reflects the overwhelmingly positive intentions of this bill, as well as an appreciation of its importance in the life and the development of Yukon.

There are issues with this bill, but no one refutes the merits of devolving greater powers to the Yukon government.

Again, I would like to congratulate Senator Christensen and all the people of Yukon on this achievement. I am confident that official devolution in 2003 will bring continued success to the territory and mark a new beginning for all her people.

On motion of Senator Watt, debate adjourned.

•(1550)

[Translation]

## LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

### SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Corbin, for the second reading of Bill S-41, An Act to re-enact legislative instruments enacted in only one official language.

**Hon. Gérard-A. Beaudoin:** Honourable senators, I would like to say a few words in connection with Bill S-41, the Legislative Instruments Re-enactment Bill.

Senator Joyal has very clearly delineated the context of this bill and has provided an excellent synthesis of it.

The Standing Joint Committee for the Scrutiny of Regulations has discovered that five legislative instruments were published in both official languages although not enacted in both, but rather in only one of our official languages. The purpose of Bill S-41 is to correct this and to retroactively re-enact these texts in both official languages. The texts in question are the following: Public Lands Mineral Regulations (June 25, 1958); Hull Construction Regulations (February 7, 1958); Aids to Navigation Protection Regulations (August 6, 1964); Flue-cured Tobacco Producers' Marketing Order (July 13, 1961); and Regulations respecting Aeronautics (December 29, 1960).

With the exception of the Public Lands Mineral Regulations, abrogated on December 20, 1995, all the others were in effect at the time the Committee released its report. In that context, the Joint Committee indicated that these regulations might be invalid, even if they had been published in French and English, because they had not been re-enacted in both official languages after 1969.

Moreover, Bill S-41 gives the Governor in Council the power to re-enact retroactively, in both official languages, legislative instruments that were passed or published in only one language or not published at all. As Senator Joyal explained, there may be other instruments that were not passed in both official languages.

The importance of bilingualism in our federation cannot be overemphasized.

Section 133 of the Constitution Act, 1867, deals with the legislative, parliamentary and legal language. Out of the four original provinces, Quebec is the only one mentioned. Sir George-Étienne Cartier saw parity between the status of French in Ottawa and of English in Quebec City.

Section 133 provides that either the English or the French language may be used in the debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; that both languages shall be used in the respective records and journals of those Houses; that either of those languages may be used by any person, or in any pleading or process in or issuing from any court. Finally, this section provides that the acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in French and in English.

In the famous *Jones* case, the Supreme Court of Canada ruled that section 133 provides a constitutional guarantee. The federal Parliament cannot go against the provisions of that section, but nothing prevents it from going beyond its wording, which is a minimum, and from granting more. Section 133 gives the "constitutional right" to use either language in the areas and places specified in it.

The Parliament of Canada also recognized statutory rights after 1867. In 1968, realizing that the Constitution was seriously flawed with regard to official languages, Parliament adopted the Official Languages Act. Section 2 of that act puts French and English on an equal footing in all the institutions that come under the government and the Parliament of Canada. Both languages have equal rights and privileges as to their use in the institutions of the Parliament of Canada and of the Government of Canada.

This 1968 legislative measure was in response to the report of the Royal Commission on Bilingualism and Biculturalism — the Laurendeau-Dunton Commission — set up by Prime Minister Lester B. Pearson. The coming into effect of this legislation signalled the beginning of significant language reforms.

A new Official Languages Act was passed in 1988.

The legislation between 1968 and 1988 plays an important role in Canadian policy. Furthermore, in *Beaulac*, Mr. Justice Bastarache said, with respect to the Official Languages Act:

The objective of protecting official language minorities, as set out in s. 2 of the Official Languages Act, is realized by the possibility for all members of the minority to exercise independent, individual rights which are justified by the existence of the community. Language rights are not negative rights, or passive rights; they can only be enjoyed if the means are provided. This is consistent with the notion favoured in the area of international law that the freedom to choose is meaningless in the absence of a duty of the State to take positive steps to implement language guarantees...

Honourable senators, it is my view that Bill S-41 remedies important oversights with respect to legislative and/or regulatory bilingualism. I hope that this sort of error will not recur.

[ Senator Beaudoin ]

Bill S-41 does not contain any list of the regulations which do not respect the provisions of section 133 of the 1867 Act. Apart from the five regulations identified by the Committee's report in October 1996, it is impossible to determine the number of legislative instruments that will have to be re-enacted either from an instrument published in both official languages or from a translation of the original version.

One might wonder why the Department of Justice has waited over 22 years before proposing measures to correct this situation.

• (1600)

The report of the Standing Joint Committee for the Scrutiny of Regulations states, at paragraph 15, and I quote:

The government has had plenty of time to identify the federal regulations still in effect that do not comply with the requirements of section 133 in order to remedy the situation. It is the belief of the committee that rather than solving the problem of unconstitutional regulations, the government has chosen to ignore the problem, and when this was no longer possible because the committee revealed this fact, it hid behind the argument that its prior "good faith" excused it for not having fulfilled its constitutional obligations.

This inaction could have had significant consequences on the enforcement of the provisions of certain federal statutes and on the rights of those who are subject to trial. The Standing Committee on Legal and Constitutional Affairs will have to clarify this issue when it studies the bill.

The briefing note published by the Minister of Justice on March 5, 2002 states, and I quote:

The proposed legislation provides an efficient and cost effective way to address this uncertainty while, at the same time, demonstrating the Government's ongoing commitment to the rule of law, respect for the Charter and the importance of linguistic duality in Canada.

The government should have thought of some way to comply with the Constitution well before the month of March 2002. Nonetheless, I support moving forward with Bill S-41, even if it means studying it much more carefully in committee and examining better ways to rectify this situation.

On motion of Senator Kinsella, for Senator Rivest, debate adjourned.

[English]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in our gallery of Mr. Roch Carrier, National Librarian, and Karen McGrath, Executive Assistant.

Welcome to the Senate.



Honourable senators, I also draw your attention to the presence in the gallery of Wilton Littlechild, former Member of Parliament for Alberta.

Welcome to the Senate.

**Hon. Senators:** Hear, hear!

[Translation]

## BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, we would like to proceed first with Item No. 1, followed by Committee Reports Nos. 1 and 2, and then move to second reading of Bill C-49.

## ROYAL ASSENT CEREMONY

### MOTION PERMITTING TELEVISION COVERAGE IN CHAMBER ADOPTED

**Hon. Fernand Robichaud (Deputy Leader of the Government),** pursuant to notice of March 14, 2002, moved:

That television cameras be authorized in the Chamber to broadcast the Royal Assent ceremony scheduled for March 21, 2002, with the least possible disruption of its proceedings.

Motion agreed to.

[English]

## THE ESTIMATES, 2002-03

### REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on National Finance (2001-2002 Estimates), presented in the Senate on March 14, 2002.

**Hon. Lowell Murray** moved adoption of the report.

He said: Honourable senators, you will note that there are before us three reports from the Standing Senate Committee on National Finance, two relating to the fiscal year ending this month and one relating to the Main Estimates for the fiscal year beginning April 1.

Unless provoked, I do not intend to speak to the other two orders. However, I will speak now to the twelfth report of our committee that deals with the 2001-2002 Estimates to pave the way for the interim supply bill which, if history is any guide, will not be long coming.

As I begin, allow me to say a word about the work of this committee. This committee has met 45 times so far in this

session of Parliament. Twenty-six of our meetings have taken place since September last. In all, this amounts to something in the vicinity of 70 hours of deliberations. We have brought in 13 reports. We have considered five sets of Supplementary Estimates or Main Estimates. We have completed committee stage of three government bills and one private member's bill. We have completed a study on deferred maintenance at post-secondary educational institutions, which subject is still being debated here and is gaining some attention in certain circles, notably education and government circles across the country. As well, we will be reporting later this week on our study of the federal government's equalization program.

As chairman, I mention this simply to commend my colleagues on the committee for the seriousness and diligence with which they have gone about their work. If you examine the attendance records of this committee, you will find that the attendance of your colleagues on the committee has been exemplary. We have a very good mix of members on this committee of highly experienced and relatively new senators. That, in itself, I think, has added something positive to our deliberations. It often happens that some questions are more obvious to some of the newer senators than they are to some of the older senators. In any case, the mix has been very productive for the committee.

I want to say a word of commendation to the clerk, the Library of Parliament research officer and other staff who service this committee. The fact is that a workload such as this imposes an increasing burden on the finite human resources that are at our disposal. On behalf of the committee, and indeed on behalf of the entire Senate, I wish to commend them.

Honourable senators, I will flag several items in this report that will form the backbone of our agenda for the weeks and months following the Easter break.

•(1610)

We have mentioned the Treasury Board contingency Vote 5 items. We have discussed this matter in this place on several occasions in the past. The committee is quite concerned with the apparent flexibility that departments give themselves to use this contingency vote to finance new initiatives and various bright ideas that the government or ministers think are expedient to implement with or without proper parliamentary scrutiny.

The government and its officials, when confronted with this issue, plead the historical legitimacy of a contingency vote as well as the practical necessity of a contingency vote. We accept both of these arguments up to a point. There probably has been a contingency vote since 1867. One is necessary precisely to provide for unforeseen contingencies.

The question is whether the money is being used properly. The committee is compiling a file documenting the quite limited uses to which the vote was put in the early days and the rather more liberal use of it in modern times. We will be getting at that in some detail in the coming weeks and months.



Honourable senators, we have also a section in this report dealing with foundations and agencies. The concern is expressed that they are operating at arm's-length from government and have not been subject to the usual financial supervision.

Here, I should like to draw a distinction. Two agencies, the Canada Customs and Revenue Agency and Parks Canada were created by Parliament at the insistence of the government. I and other honourable senators objected in the chamber when this was done. We objected in particular to the fact that these agencies were created for the purpose of getting out from under the Public Service Staff Relations Act and other administrative or legislative constraints that apply to the rest of the government. We protested that.

However, we lost the battle. Parliament has decided. Those agencies are in existence. We have no intention of revisiting that decision and those debates. It remains only for us to ensure that these so-called "arm's-length" agencies respect the essence of parliamentary accountability which, we have been assured by ministers, is inherent in the legislation that created the agencies.

I am rather more concerned, and I think it is fair to say that the committee is rather more concerned, about some of the other agencies. Certain other agencies were created under the aegis of the Canada Corporations Act or a similar statute and, toward the end of a fiscal year, the government spills surplus money into these agencies. Perhaps Parliament catches up with the entire process later but, meanwhile, the money is gone. Money that could have been applied to the national debt, a tax reduction or some other purpose, has been spilled into the new agencies that have sprung up.

These agencies are at considerable arm's-length from the government. We are never quite clear what they are supposed to do. They are rather slow to get off the ground. The entire arrangement bears the marks of improvisation, and quite expensive improvisation at that.

Some of these agencies, such as the one that we mentioned the other day, the Pierre Elliott Trudeau Foundation, were essentially created privately, albeit a not-for-profit foundation. Parliament has no paternity over the creation of these foundations at all. We do not even have a respectable role of midwifery with them. We are simply called upon to approve a funding estimate, and later, perhaps some legislation.

The committee wants to carefully scrutinize what is being done here. We want to determine if we cannot set out some proper guidelines for the creation and operation of these agencies, and in particular, for their accountability to Parliament.

The third issue that we flagged is the reform of the public service. Again, agencies such as Parks Canada, the Canadian Food Inspection Agency and the Canada Customs and Revenue Agency have been mentioned because they have large numbers of employees, particularly the Canada Customs and Revenue Agency, and they are no longer subject to the provisions of the

Public Service Employment Act and its guiding principles. We want to examine that question anew.

However, the larger question is the ongoing overall reform of the public service that has been announced and that is in some ways the talk of the town, at least among those involved or interested in it. There is rather an underground controversy going on about it, the details of which escape me, but there is clearly quite a division of opinion in the public service, and perhaps in the government itself, about what is being done and what the outcome is likely to be.

I come to the question of the merit principle. Some reports note that the merit principle as we have known it, in the recruitment of public servants, will disappear with this reform. It may well be that some of the legislation governing the public service has been overtaken by time and ought to be changed, but there is a question of the fundamentals. There is a question of the merit principle concept, and it seems to me that our aim ought to be to reinforce it in any reform of the public service and not to dilute it.

It occurs to me also that the emasculation of the Public Service Commission, which seems to me to be one of the objectives of this exercise, ought to be resisted. I do not care if it does go back to Sir Robert Borden, as indeed it does. There was good reason for it, and we ought to first examine principles and concepts before we idly throw them away in the guise of administrative efficiency, modernity or any other interests.

Honourable senators, we have had a conversation about this with the minister, Madam Robillard. These matters fully deserve the attention of the committee in the coming weeks and months. I assure you that they will receive our attention and, in due course, a full report will be made to the Senate.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** I should like to ask a question of Senator Murray.

The honourable senator made reference to a suspicion that many corporations are created in order to dump money into them — money that would otherwise lapse. He specifically referred to the proposed Pierre Elliot Trudeau Foundation, which would receive \$125 million. Would the honourable senator provide an explanation of the nature of that foundation? Why would taxpayers' money go into that foundation? Would it be subject to the Auditor General's review?

• (1620)

**Senator Murray:** I do not know that I can reply at any length except to refer my friend to the eleventh report of the committee, when we were discussing Supplementary Estimates (B). We were called upon in Supplementary Estimates (B) to approve the expenditure of \$125 million as a transfer to finance the affairs of the Pierre Elliott Trudeau Foundation. The foundation is a private, not-for-profit foundation under the Canada Corporations Act, I believe. I think we were told who the directors are. They are people of various political stripes known to all of us.

One of the questions asked of the officials at the committee was exactly the question Senator Kinsella has put: Will the Auditor General be the auditor for this foundation? The answer appears to be no. It is a private foundation. The official said that a fine line has been drawn between the obvious interest of government and Parliament in seeing that its money is spent properly, on the one hand, and the autonomy of a foundation such as this on the other.

The question was raised whether this foundation would be financed 100 per cent by public funds or whether private funds would be involved. I think the answer was that they would accept private as well as public funds.

Senator De Bané criticized the intent of the foundation to offer financial assistance to people studying in Canada only. He made the point that Mr. Trudeau himself had attended a number of institutions abroad, and some of our best and brightest are studying at the London School of Economics, Harvard and Oxford, and the foundation ought not to limit the assistance to students studying at Canadian universities.

These substantive questions were raised, as well as questions about the process of parliamentary supervision. We reported on them in our eleventh report, and I invite my friend to have a look.

**Hon. Roch Bolduc:** Honourable senators, I should like to say a few words about the questions raised by my friend, one of them being what I consider as the evolving structural organization of the government. It has changed a great deal in the last few years. No one has looked at it in a systematic way, but it has changed a great deal. We have to understand that. Traditionally, we had ministries with one deputy minister, because the ministry is a kind of corporation with one deputy minister, with one head. It is important to realize that. We used to have as many as 20 or 25.

Suddenly, during the last 15 years, we began to have semi-judicial organizations called "administrative commissions" outside the ministries. The Public Service Commission is an example. We wanted an arm's-length relationship vis-à-vis the government. We also wanted to give these administrative commissions some regulatory power at certain times, and some judicial or semi-judicial power for the arbitration of cases, which is the case with respect to the Public Service Commission, which has an administrative duty, as well as regulatory powers and semi-judicial powers. Later, we had some business-type organizations, such as Crown corporations, in which money could be involved. Those were the traditional days: the ministries, the administrative commissions and the Crown corporations.

Then, with the Financial Administration Act, we modified the situation for the organizations that were partly in and partly out. We had two kinds of government corporations: Crown corporations, such as CN, and departmental corporations, such as Statistics Canada.

For the last 10 years, we have had special agencies, which are organizations taken out of the ministries for administrative operations. We decided to create a special agency with a boss, and sometimes, as we did with Parks Canada and the revenue agency, we just got them out of the civil service. In my mind, that is troubling, but I do not say that it is bad.

Even if you are inside the public service or outside of it, some principles should be kept, such as the merit principle. Other principles are included in the Financial Administration Act, and they are financial administration, financial accountability, merit and competition. Merit is not easy to judge when one judges or evaluates people. The only way to do it is to open the field to candidates. Then we have a jury, we process through written or verbal examination, and then we decide, relatively speaking, who is the most competent.

That is the only way to do it. If we do not do that, we have a system of protection and, finally, patronage. That is the history of Canada. It was the history of England before 1855. It was the history of the United States before 1923. We know very well what happened in the public services.

Under the coalition government in 1917 during World War I, we had finally a system that was partly based on the British system. Included in it was a civil service commission, which was an administrative agency outside the government, and it judged the merit of the people who came into the civil service. That was the idea. It worked not too badly at the beginning. People were not used to it because one does not change traditions just like that. There were various cases of patronage. Finally, a royal commission in 1935 decided that the power of appointment must be given to the civil service commission itself. Otherwise, it would be friends of ministers, pressure by House members, pressure by a friend, and finally, you are in a mess. The public administration is not good in that situation.

Although it is not in the open, because higher civil servants are discreet, apparently there are big discussions in the government between the Privy Council, the Treasury Board, the Public Service Commission and the ministry. Some people, probably at the Treasury Board, want to have all the administrative power for regulation in the public service. They already have what we call the "working conditions," such as labour agreements, but they also want to be able to delegate selection to the ministries.

Let us be very prudent, honourable senators. If we do that, we must put in the legislation of every ministry the fact that there will be a merit system with competitive examinations if one is to advance and to be promoted. If the principles of financial administration that are in the public service act are added to the legislation of every ministry, then I am not troubled greatly because we have a guarantee. If someone does not behave according to the regulations, that person will be thrown out. However, let us not forget: We must have principles in public administration, otherwise it is a mess. History proves that. I will not expand on that point, but I know that there is a debate. The pressure is intense at the civil service commission.



Honourable senators, I know a gentleman who was involved in that in 1935. I knew him as a young man when I too was interested in those matters. This gentleman was an old House member on the other side, Mr. Jean-François Pouliot from Rivière-du-Loup. He was involved in a royal commission. I read through that, and it was anecdotal; in terms of patronage, it was history at its best. It has been described in a way that no one else could describe it. We changed it immediately after that, because the King accepted it. That was the beginning of a better, higher, civil service for Canada. We want to keep that.

**The Hon. the Speaker:** I wish to advise honourable senators that if Senator Murray speaks now, it will have the effect of closing the debate on this motion.

[Translation]

**Senator Murray:** Honourable senators, since Mr. Carrier is in the gallery, I am taking this opportunity to point out that the committee is taking the problems that Mr. Carrier and his staff are facing at the National Library very seriously.

Our friend, Senator Corbin, raised the issue on several occasions before the committee and he did so vigorously. I simply wish to draw your attention to a paragraph in the interim report on the budget for the year 2002-2003, which begins on April 1. It reads:

Some senators asked questions about the financing of the National Library. On page 18-3, we see that the library's budget is only increased by \$489,000, to \$36.7 million for 2002-2003. Yet, the National Librarian pointed out that the facilities housing the collections are seriously deteriorating. Senators were dismayed to learn that these facilities are in such disrepair that there is a constant risk of flooding or fire. Upon reading the budget, they are under the impression that nothing is being done to meet the wishes of the National Librarian and to remedy the problems that are causing damage to invaluable documents. Mr. Bickerton recognized the existence of the problem at the National Library and he told the committee that the National Library had recently requested \$1 billion in additional resources. He anticipates that the money allocated to correct the above-mentioned problems will appear in the next supplementary estimates. He could not say whether the amount requested would be sufficient to put an end to the problems, but he did say that Treasury Board's policy was to encourage departments and organizations to prepare capital spending plans that include costs to repair and maintain their facilities.

I do not know whether Mr. Carrier finds these assurances comforting, but I felt that they should be put on the record.

[English]

I am hopeful for any small bit of encouragement that may be provided to him by the words of this report, by the testimony of

the Treasury Board officials and by the very determined manner in which our honourable colleague and friend, Senator Corbin, brought these matters to the attention of the committee and the Senate.

Motion agreed to and report adopted.

## BUDGET IMPLEMENTATION BILL, 2001

### SECOND READING—DEBATE ADJOURNED

**Hon. Anne C. Cools** moved the second reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

She said: Honourable senators, I rise to speak to second reading of Bill C-49.

If I may, honourable senators, I wish to say that I was a little distracted as I listened with such interest to Senator Bolduc's comments and Senator Murray's comments. As always, I was touched and impressed by the quality and volume of the knowledge that sits on our Standing Senate Committee on National Finance.

Bill C-49 will implement many of the measures that were contained in Minister Paul Martin's December 10, 2001, budget. In particular, two of these measures flow directly from the terrorist attacks of September 11, 2001 in the United States. The first of these two measures is the proposed Canadian Air Transport Security Authority intended to deliver enhanced security services at Canadian airports and on board flights. The second measure is the proposed Air Travellers Security Charge to fund these enhanced security measures for air travellers.

In addition, Bill C-49, if passed, will also create the Canada Strategic Infrastructure Fund and the Canada Fund for Africa; will introduce tax measures to encourage the acquisition of skills and learning; will improve the environment; and will make the operation of the tax system fairer. Further, the bill proposes to improve parental benefits under the Employment Insurance (EI) program.

Honourable Senators, I wish to begin by providing a brief overview of the measure contained in the 2001 budget speech. The 2001 budget is built on the government's long-term plan for a stronger economy and for a more secure and protected society. Bill C-49 is responding to the immediate economic and security concerns of Canadians resulting from the events of September 11.

In respect of the personal security of Canadians, particularly air travellers, the 2001 budget provided a new approach to air security and introduced measures for intelligence, policing, emergency preparedness, military deployment and for the better screening of visitors, immigrants and refugees entering Canada through airports.

[ Senator Bolduc ]



To safeguard the economic security of Canadians, the 2001 budget advanced the government's long-term plan through measures that would make the Canada-U.S. border more open and efficient. As well, the long-term plan included strategic investments in health, skills, learning and research, strategic infrastructure, the environment, Aboriginal children and international assistance. All of these proposals have been advanced in a fiscally affordable way. Bill C-49 includes several of these measures.

Honourable senators, I shall begin this debate by speaking to the government's new and necessary approach to air security, particularly the establishment of the proposed Canadian Air Transport Security Authority as a new agency. As honourable senators know, the 2001 budget announced \$2.2 billion in funding for the proposed Canadian Air Transport Security Authority. This authority will be responsible for delivering a number of key air transport security services. It will be required to demonstrate that consistent, effective and highly professional services be delivered at or above the standards set by federal regulations and rules. Transport Canada will continue to regulate the delivery and provision of these security services. This department will dedicate new resources, particularly by hiring additional screening personnel, by increasing the level of security in the air transport system, by adjusting requirements as appropriate and by ensuring compliance to high standards through an enhanced enforcement program. This new separation between the service delivery and the regulatory monitoring will respect the distinction between the two functions and will enhance the checks and balances in the system.

•(1640)

Honourable senators, the primary purpose of the Canadian Air Transport Security Authority is to provide effective, efficient and consistent screening of all those persons who have access to aircraft or restricted areas at designated airports and to screen, as well, all of their belongings. For the delivery of these screening services, the new authority will have the power either to recruit and deploy its own screening officers or to enter into arrangements and agreements for local delivery with security organizations or also to authorize airport operators to provide for these services.

The new authority will be empowered to certify all screening contractors and screening officers, regardless of who employs them, on the basis of criteria that are at least as stringent as the criteria provided for in Transport Canada's regulations and standards.

This new authority will also have the power to establish contracts to address certain basic working conditions that affect the ability of screening officers to do their jobs effectively, such as wages and hours of work, even though the screening officer may not be an employee of the authority. This new authority's approach to screening will provide the benefits of flexible delivery mechanisms, private sector involvement and sensitivity to local needs, while yet simultaneously creating consistency and constancy across the whole system and country. By utilizing the

variety of mechanisms available, the authority will be able to put into place a well-qualified and well-trained workforce.

Honourable senators, in addition to certification and pre-board screening, the authority will also be responsible for the following: the acquisition, deployment and maintenance of screening equipment at airports, including explosives detection systems; contributions for airport policing related to civil aviation security measures; and contracting with the RCMP for armed officers on board aircraft.

The Canadian Air Transport Security Authority will be a Crown corporation accountable to Parliament through the Minister of Transport. Two of its eleven-member board of directors will be nominated by the airlines and two by the airport operators.

With the creation of this new authority, Canadian air travelers will benefit from effective, efficient and consistent security screening at airports. The authority and the other comprehensive and far-reaching initiatives of the budget will ensure that Canada can maintain its good record for safety and security and that Canada will succeed in its efforts to enhance air transport security in the months and years to come.

Honourable senators, Bill C-49 also makes another far-reaching proposal. This proposal is the new Air Travellers Security Charge. These new air travel security measures as proposed will be funded by the Air Travellers Security Charge, a charge that will be paid directly by air travellers, passengers, the primary beneficiaries of the new measures. The charge will be collected by air carriers or their agents when airline tickets are purchased. The government believes that these costs should be borne by the travellers who actually use the Canadian air transportation system rather than by all taxpayers.

For travel within Canada, this new security charge will apply to flights connecting airports where the Canadian Air Transport Security Authority has responsibility for passenger screening. The charge on domestic travel will be \$12 for a one-way ticket and \$24 for a round trip. For continental United States travel, the charge will be \$12 and \$24 for a ticket to travel outside Canada and the continental U.S. The new charge will not apply to direct flights to or from small and remote airports where the authority will not be taking over responsibility for passenger screening. That is an important fact. There are also exemptions from the charge for certain speciality services, such as air ambulance services. All proceeds from the charge will be used to fund the enhanced air travel security system. The government will review the charge annually, beginning in the fall of 2002 this year, and if revenues exceed costs over time, the charge will be reduced.

Honourable senators, the December 2001 budget had also addressed the immediate needs of Canadians through targeted investments intended to boost confidence in the economy in a way that fits within the government's prudent fiscal framework. By investing in strategic infrastructure, in skills, learning and research, and in health, Aboriginal children, the environment and international assistance, the 2001 budget reflected the government's long-term vision while providing important support for the economy as a whole.

Several of these strategic investments are included in Bill C-49. The first such investment is infrastructure investment. This involves the establishment of the Canada Strategic Infrastructure Fund, with a minimum of \$2 billion in federal funding, to provide additional support for large strategic infrastructure projects across Canada. Such projects will bring lasting economic and social benefits while providing both stimulus and long-term productivity benefits. Previous budgets had allocated funding to improve provincial and municipal infrastructure, including green infrastructure, highways and affordable housing.

On reflection, Budget 2000 had introduced the Infrastructure Canada Program and the Strategic Highway Infrastructure Program, initiatives that the 2001 budget are now building upon with the Canada Strategic Infrastructure Fund. Working with provincial and municipal governments and the private sector, this fund will provide assistance for projects in highways and rail, in local transportation, in tourism and urban development and in water and sewage treatment. I should also mention that the infrastructure minister will now be responsible for all government infrastructure initiatives. This will ensure better coordination and integration of all the government's infrastructure activities.

Honourable senators, another strategic investment in the 2001 budget involves the establishment of the Canada Fund for Africa. The 2001 budget had announced \$500 million over three years for African development to implement a proposal known as a New Partnership for Africa's Development, NePAD. African leaders presented NePAD at the G8 Summit last July in Genoa, where G8 leaders, including Prime Minister Jean Chrétien, had pledged to support the initiative. Since then, the Prime Minister has been clear that development in Africa will be a key theme at this year's G8 Summit, which Canada will host in June of this year, 2002, in Kananaskis, Alberta.

The Canada Fund for Africa will establish a government program to provide funding for activities that will help reduce poverty, provide primary education in Africa and will set Africa on a sustainable path to a brighter and better future. The creation of this fund reaffirms that Canadians are earnest in their duty to help the less fortunate in the world. It also echoes a commitment made in the Speech from the Throne, that the long term well being of Canada and Canadians depends on its success in improving global human security, prosperity and development.

Honourable senators, whether through the education system, or through on-the-job training, or through universities and other centres of advanced research, the Government of Canada has long recognized the importance of investing in human beings. The government remains committed to provide every opportunity for Canadians to upgrade their skills and job capabilities. For example, under the Canadian Opportunities Strategy announced in the 1998 budget, the government had introduced the Canada Millennium Scholarships, the Canada Education Savings Grants and the Canada Research Chairs program and had invested in the Canada Foundation for Innovation, among other initiatives.

Honourable senators, building on these, the 2001 budget further encourages the acquisition of skills and learning by making changes to the tax system. First, tax assistance will be provided to help apprentice vehicle mechanics cope with their extraordinary costs. Beginning this year in 2002, apprentice vehicle mechanics registered in a provincial program will be able to deduct the cost of buying new tools in a year to the extent that those costs exceed the greater of \$1,000 and 5 per cent of their apprenticeship income.

• (1650)

A second measure will affect adult students who must now include as income any government assistance they receive to pay their tuition fees for basic education at the primary or secondary school level. Bill C-49 will remove this impediment by exempting from tax the tuition assistance for adult basic education provided under certain government programs, including Employment Insurance.

A third measure will involve the education tax credit, which assists students to offset their education expenses. The October 2000 economic statement and budget update had doubled the amounts on which the credit is calculated. With the passage of Bill C-49, the education tax credit will now extend to students who receive financial assistance for post-secondary education under certain government training programs, including EI. Approximately 65,000 Canadians who are upgrading their skills will now have access to the same tax benefits as other post-secondary students.

Honourable Senators, new spending and tax measures intended to ensure continued progress toward a cleaner and healthier environment were also part of the 2001 budget. One of these measures involves commercial woodlot owners who can currently be subject to income tax when transferring woodlots to their children. As a result, woodlots may have to be harvested prematurely to generate the revenues required to pay the tax on the transfer, which can be detrimental to the sound management of this natural resource. Bill C-49 proposes to extend the existing intergenerational tax-deferred rollover for farm property to intergenerational transfers of woodlot operations that are farming businesses managed in accordance with a prescribed forest management plan.

Additional tax measures, all designed and intended to improve fairness in the tax system, were also announced in the December 2001 budget. One such measure will make permanent the 1997 budget measure that provides special tax assistance for donations of certain securities to public charities and the 2000 budget measure that reduces the tax on employment benefits for donations of eligible securities acquired through stock option plans. Another measure will improve the system for providing GST credits. Beginning in July 2002, GST credit entitlements for a quarter will be based on an individual's family circumstances at the end of the preceding quarter, not those at the end of the previous calendar year.



Honourable Senators, Bill C-49 will include other tax measures, which are as follows: A cash-flow benefit to small businesses by deferring their federal corporate tax instalment payments for January, February and March, 2002, for at least six months without penalty; the allowance of full deductibility for the cost of meals provided to employees at a construction work camp where the employees cannot be expected to return home each day; and the removing of tax-related impediments to venture capital investment in Canada through the use of partnerships by Canadian pension plans and foreign investors.

Honourable Senators, the final measure in Bill C-49 will further improve the delivery of parental benefits under EI, Employment Insurance. The current 50-week cap on the combined amount of sickness, maternity and parental benefits that an individual can receive under EI results in women who become ill, not having full access to these extended benefits. To enable a mother to receive her full entitlement of special benefits, this cap increases by one week for each week of sickness benefits she takes while pregnant or receiving parental benefits. This bill will also improve the parental benefits that can be claimed following the birth or adoption of a child by providing parents with a window of up to two years within which to claim benefits. In unfortunate cases where the child is hospitalised for an extended period of time following its birth or adoption, this change will provide more flexibility for parents who want to start claiming parental benefits once their child arrives home.

In conclusion, the 2001 budget builds on Canada's sound fiscal and economic fundamentals. The economic stimulus provided in the budget is in addition to the stimulus provided by the large tax cuts the government announced in October, 2000.

In the 2000 budget, the government introduced the largest tax cuts in Canadian history. In October, 2000, the government had accelerated that plan. This year, lower taxes have put \$17 billion back into the pockets of Canadian families and businesses — needed money that they can spend or save as they wish. By next year, the value of the tax cuts will grow to \$20 billion. This is a significant stimulus which is already working its way through the economy.

The 2001 budget struck the right balance. It provided support at a critical time, without jeopardizing the advances of our past or the prospects of our future. The government will continue to invest in people, cut taxes, reduce debt and build a stronger economy. However, we will not go back into deficit.

Honourable Senators, the Government is definitely on the right track. I urge all senators to support Bill C-49.

[Translation]

**Hon. Roch Bolduc:** Honourable senators, obviously the Budget Implementation Act, 2001, addresses a number of subjects, the main ones being the new Crown agency for administering airline security and the air travel tax, as well as the new funds, the Africa Fund and the Strategic Infrastructures Fund.

Between six and eight sectors of the Income Tax Act are affected. I will not go into all this today. Because there will not be much debate on the amendments relating to the Income Tax Act, I will concentrate the bulk of my criticism on four items, the first concerning the tax on air travel.

[English]

The new surcharge of \$12 per flight or \$24 return on air travel is by far the most contentious measure. It is far higher than it needs to be. It will adversely affect travel that ought not to be affected, and government has not even looked at the potential economic downsides.

Honourable senators, back in December, the government announced it was taking over airport security, and imposed this \$12 tax to cover the cost of running and improving it. We were promised that the tax would cover those costs and nothing more. How did the government decide that \$12 would be exactly the right amount? We know the minister's officials took the number of people boarding planes in the year 2000, subtracted 30 per cent, then assumed that passenger levels would remain at that lower level for the next five years. It then divided the amount of money needed by this deflated denominator to arrive at \$12. The reality is that passenger loads have almost recovered to September 11 levels. This tax could raise an extra billion dollars in revenue over the next five years if it is not significantly reduced.

I am very sorry to say this, but the government should not be using the tragic events of September 11 as an excuse to pad its surplus. This is another version of EI, a dedicated tax that is anything but dedicated.

Nothing in Bill C-49 specifies that revenues from this tax must match the cost of airport security. There is nothing that forces the government to lower the tax if it raises too much money. Of course, the government is promising to review the tax in the fall and lower it if necessary. That promise was made in desperation when the Liberal member of the Finance Committee in the other place was about to cast the deciding vote to cut the tax. Do you remember the promise to axe the GST? We are still waiting.

Honourable senators, beyond the rather questionable math used to set the rate during committee testimony in the other place, it was learned that the government made a new economic impact assessment prior to announcing the tax. The minister of finance might want to take a few minutes to read his own government Treasury Board guidelines, as they specifically require departments and agencies to conduct an impact assessment before setting or changing a user fee.

While the government failed to look at the potential damage this tax could cause, the problems are obvious. There is the matter of service to remote communities. Places like Sandspit, British Columbia, and Îles de la Madeleine, Quebec, where air travel is the only reliable year-round means of getting in and out.



Honourable senators, if you live here, in the National Capital Region, it is a 20-minute drive to take your child from Kanata, Hunt Club, Hull or Orleans to the Children's Hospital of Eastern Ontario. If you live in Kuujuaq, Quebec, forget about driving your child to a hospital in Quebec City or Montreal. The two of you will have to fly, and it will cost the two of you an extra \$48.

Then there is the impact of this tax on passenger travel. An extra \$24 return will not make that much difference when applied to a \$2,000 ticket from Edmonton to Ottawa. However, it will make a significant difference on a \$200 seat-sale flight from Ottawa to Toronto — except for civil servants, of course, because their tickets are paid by the government. So the government is taxing itself.

Several of the carriers serving smaller communities have pointed out that this could create a major disincentive to fly on short-haul routes, and they are right. If you and your spouse are flying at your own expense from Ottawa to Toronto, or from Edmonton to Calgary, or from Regina to Saskatoon, you will notice an extra \$48 between the two of you. That is almost what you would spend on gas one way; and if you have a small enough car, it may cover the return trip. You will think about getting in your car and driving.

Some people will consider taking the bus. A round-trip bus ticket from Montreal to Toronto is about \$165, including tax. If a budget-conscious traveller books a week in advance, a companion ticket is free. If you live in the Quebec-Ontario corridor, add VIA to the list of travel options. A round-trip economy ticket from downtown Montreal to downtown Toronto on VIA costs \$235, including all taxes; and if you buy your ticket far enough in advance, that fare drops to a tax-included amount of \$142.

Honourable senators, there is not an airline seat sale around that beats those bus and train prices, once you have included all taxes and NAV CANADA charges. If you factor in the time it takes to get to the airport, to check in and to go through security, as well as the time it takes to pick up your luggage at the other end and then the time it takes to get a cab downtown, you find that you have spent a lot of money to save a couple of hours of travel time. The result is that an extra \$24 charge on short-haul flights will shift a lot of travellers off the planes and into cars, buses and VIA at the expense of competition and service in the air.

If the government really wants competition in the airline industry, shrinking the market so that short-haul runs can no longer support two carriers is not a very smart thing to do. The government has refused to consider any other model than a flat \$12 rate, regardless of distance travelled. That rate is simply too high for short-haul flights. Nor has the government considered other alternatives to keep the tax down. For example, it wants the tax to pay for all equipment the year it is purchased,

rather than amortizing the cost over the life of the equipment. That alone would lower the tax to \$8.

The Minister of Transport now tells us that airlines can offset the tax by reducing their prices to account for the savings in having the government run the transportation system. That saving, some \$70 million per year, works out to about \$2 per ticket.

A further problem is that, as written, this tax will apply to some flights for which there is no security. For example, it is not unusual for passengers on a special charter to be bused onto the tarmac and taken directly to their waiting plane. Another example occurs at Vancouver International Airport. There is the main terminal that many of us have been through at one time or another. There is also the south terminal, two kilometres from the main terminal. The south terminal is the point of departure for smaller planes and charters. You walk in one door and then out the other to go to your plane, without passing through security. As written, the bill applies to the south terminal, unless the minister agrees to waive the tax, as he already has for flights from the Vancouver harbour to Victoria Harbour. Why does Bill C-49 give that kind of discretion to the minister instead of simply saying that no tax shall apply if no security services are provided?

Another problem would be the way the tax applies when the same trip involves two airlines that do not have an integrated ticketing system. You will pay the tax once on the ticket for the first airline and then a second time for the ticket on the second airline. You will then have to apply for a refund, as you only went through security once.

Honourable senators, this tax has not been well thought out. It ought to be sent back to the drawing board before it causes unnecessary harm.

Here is an additional argument, which I think is a good argument. Even though the flat rate was adopted by the government in part because of its apparent simplicity, changing complex computer reservation systems has proved a complex undertaking. Provincial sales tax, the point of ticket purchase, the number of legs in the trip and the airports of origin and destination all must be factored in. However, the government has yet to resolve even the basic issue of how to implement the fees. So we might have some problems, like we had with the heating system.

These things were decided suddenly in January, to be applicable at the end of March. Even though the bureaucracy works hard and tries to be efficient, it is not easy to apply a new system for the whole of Canada. We might have some problems, although I hope not. We have more than 125 airports in Canada. I do not know if all of them are covered with the security services. What will happen with private planes and charter flights? For example, how will this affect Senator Watt when he travels?

We have all become aware of the problems with the proposed airport tax in recent weeks. Over the next five years, that tax could raise up to \$1 billion more than we were told last December, because the Minister of Finance made some rather pessimistic assumptions about passenger loads to figure out what rate was needed to raise \$450 million per year. One has to wonder about how reliable any other number coming out of that department is.

This proposed tax could damage competition and lead to reduced service on short-haul flights, where bus, car and train travel are cheaper alternatives. The tax will cause not only economic impacts but also regional impacts. Taxes and surcharges will make up almost half the cost of some short-haul flights. The government ignored its own guidelines.

Turning to the second aspect of this legislation, most of the money from this tax will be used to pay the bills of the proposed Canadian Air Transport Security Authority, a new corporation that the government plans to set up to run airport security. In recent years, those of us on the opposition benches have been concerned about the poor governance structures that are sometimes put in place when the government creates new agencies and foundations.

There are two tests that we have to apply to this proposed new security agency. First, given the amount of money that it will spend, basically the lion's share of the \$12 ticket tax, is the governance structure adequate to protect taxpayers' money and to ensure that it is able to improve airport security? Second, are there sufficient mechanisms available for Canadians to judge whether the authority has significantly improved airport security or whether it has become another expensive boondoggle?

In this respect, the legislative framework set out in Bill C-49 is deficient in a number of areas. First, let us look at what the government can hide. Clause 32 of this bill allows the minister to block the tabling of information in Parliament that would otherwise be required under section 10 of the Financial Administration Act if he or she feels that it would be detrimental to public security. I understand that, for public security purposes, we have to make a compromise, but the minister could use that pretext of public security to hide some other things that are not interesting in terms of administrative management. We all know that.

This affects three types of information. The first is directives from cabinet to the entity, the authority. The second is significant problems found during an annual audit that the Auditor General feels should be drawn to Parliament's attention through inclusion in the agency's annual report. The third is significant problems found during a special examination that the Auditor General feels should be included in the entity's annual report to Parliament.

Honourable senators, special examinations are the Crown corporation equivalent of the value-for-money audits performed on government departments. By law, each Crown corporation must undergo a special examination every five years. Its purpose is to give the board an independent opinion on whether the

corporation's financial and management control and information systems, and management practices, are proper. In practice, the problems have to be really serious for the Auditor General to order that the results be reported to Parliament. It happens less than 10 per cent of the time.

There are no safeguards built into this bill to ensure that the minister does not use transportation security as an excuse to simply block publication of embarrassing information. There is nothing to ensure that the minister does not confuse transportation security with security of tenure in office, because he has a built-in interest. I do not say he is dishonest, but he does have a built-in interest. It is different.

•(1710)

Further, normally under the Financial Administration Act directives from the government to a Crown corporation come from cabinet, on the recommendation of the minister, following consultation with the board as to the content and effect of the directive. Such directive must be tabled in Parliament. However, Bill C-49 proposes to allow the minister to issue written direction to the authority, on his or her own, on matters of airport security without ever going to cabinet. He or she need not consult the board, and there is no requirement that the directive be tabled in Parliament.

As well, Bill C-49 specifically declares that these are not statutory instruments. This denies Parliament a mechanism for review of those directives. Indeed, Parliament need not even be informed of such directives. Further, the bill requires the authority, its directors and employees to comply with such a directive, but what if compliance with the directive places the authority, its directors or its employees in violation of other federal laws, the laws of a province, or the by-laws of a municipality? In such a case, which law would the directors and employees follow and which one would they break?

The bill does require the minister to conduct a review of the legislation governing the authority after five years and to table a review in Parliament, and there is no requirement that this shall be an independent, arm's-length review. This agency could be a boondoggle of the highest magnitude, but we would only be told what the minister wants us to hear. This is important. In terms of a five-year review, I do not mind that people inside conduct a review, but ideally this should be an independent review by either the auditor or the Senate.

Honourable senators, as drafted, Bill C-49 does not add the authority to the list of entities subject to the Access to Information Act and the Privacy Act. It would only be subject to this law if cabinet chose to pass a regulation to that effect. This government has not been known for openness. Are there not ample safeguards in the existing access and privacy laws to prevent the release of information that would jeopardize security? Given the amount of money this new corporation will be spending, is it appropriate to exempt all information? It will be spending something in the order of \$300 million. For



example, if the minister leans heavily upon the authority to hire a speech writer or a screening contractor whose head office just happens to be in Shawinigan or elsewhere, should the public not be able to determine how many of their hard-earned tax dollars are at play?

A further problem concerns the ability of the minister to place a gag order on airports and screening contractors. Clause 32 of Bill C-49 requires authorized aerodrome operators and screening contractors to keep confidential any information the minister feels would be detrimental to air transport security or public security. This includes financial and other data that might reveal such information, and creates yet another roadblock to prevent Canadians from knowing the value of contracts awarded to friends that may have ties to the governing party.

Further, there may be instances where limiting the financial information that the contractor could divulge to other parties might cause problems for the contractor. Perhaps when the officials appear before the committee they can tell us what would happen if a provincial tax auditor wanted to look at the contractor's books, for example. Which law would the contractor follow? Would the contractor follow the federal law saying that the information cannot be divulged because the minister said so, or the provincial law demanding that the contractor cooperate with its tax auditors?

For that matter, what will happen if the bank wants a full breakdown of the contractor's revenue and expenditure prior to granting a line of credit? That happens frequently. The minister demands that you keep some of the details of your contract secret, while the banks want to see all the details before giving you an operating loan. In short, you have the contract but you cannot fulfil the contract. What would happen if a prospective buyer for the contractor's business wants to view a full set of books prior to agreeing to a price?

Honourable senators, the December 2000 Auditor General's report recommended that Crown corporation boards have a role in selecting both the chief executive officer and the chairman of the board — a practice that is the norm with private sector boards. Bill C-49 partly implements this recommendation by assigning to the board responsibility for selecting the chief executive officer. A further step would have been to also make the board responsible for electing its own chair. The legislation will go beyond that governing most other Crown corporations in giving the airline industry two seats on the board and two to aerodrome operators.

It also says that directors, in the opinion of cabinet, have the experience and capacity required for discharging their duties and functions. While this wording is a bit stronger than what we are used to seeing, it means nothing if the minister views running a Liberal riding association as the necessary "experience and capacity" for the appointment of the rest of the board.

The Auditor General, in his December 2000 report, noted that several Crown corporation boards did not have enough members

qualified to sit on an audit committee, or for that matter, enough members that were sufficiently familiar with basic accounting rules to challenge management. There is no requirement in this bill that any director have experience in financial management or accounting. I think that is a mistake.

Honourable senators, to sum up, this agency will have some problems.

I should like to say a few words about the Canada Fund for Africa and the Canada Strategic Infrastructure Fund. We understand that the Prime Minister and the Government of Canada have made a commitment to the G8 that there will be a new partnership for African development. However, since the adoption of any new measures by the group of G8 is scheduled for Kananaskis in June 2002, we do not have much information on the scope of this new partnership. Less than a page of a bill which is 101 pages in length is devoted to these measures, which involve an expenditure of \$500 million. What do we know? We know the title of the funds. We know that eligible recipients will receive money, and the minister will agree to that. It troubles me that the minister has huge discretionary power, and that there is no accountability.

Honourable senators, we all want to help Africa. However, it seems to me that we should include at least one or two criteria. For example, do we give money to dictatorial governments in Africa that constantly violate human rights? We should think about this, honourable senators. At least two or three broad criteria should be included in the legislation which will apply to this African fund.

[Translation]

For the last project, the Canadian Strategic Infrastructure Fund, the definition is given of what is involved: roads — as in the Duplessis days, stretches of road — water systems, sewage systems. The minister can also define other strategic elements. The system is the same. Exorbitant discretionary power is given to the minister.

[English]

This brings us to the issue of what anglophones refer to as "pork barrelling." We never know what influence is brought to bear because, of course, some agreements are possible, and we have seen some such agreements in several areas of Canada, including Quebec.

[Translation]

In my opinion, there is a lack of accountability here. I have nothing against governmental discretionary power. But, at the very least, legislation should be structured so as to create a reasonable legislative framework within which ministers and departmental employees may operate. A reasonable framework. All that we have here is a title and an amount of money. This is really going too far.



[English]

**Hon. Douglas Roche:** When Senator Cools finished her speech, I rose for the purpose of being recognized to ask her a question, but His Honour's visibility was blocked by a senator who was standing near the table. I did not want to interrupt Senator Bolduc. Thus, I am asking His Honour's consent to ask two questions of Senator Cools now.

• (1720)

**The Hon. the Speaker:** Is leave granted, honourable senators, for Senator Roche to put a question to Senator Cools?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Leave is granted. Will the Honourable Senator Cools accept a question?

**Senator Cools:** Yes.

**Senator Roche:** Honourable senators, we all know that, usually, budgetary bills have more than one item in them. However, this budgetary bill is widely discordant in that the centrepiece, the thrust of the bill, is the air travellers tax, but it also contains a very important section on the Canada Fund for Africa.

I declare my position immediately. I am opposed to this tax, and I want to vote against it. However, if I vote against the tax, I would be voting against the Canada Fund for Africa, which I very heartily support. I do not want, by one vote, to penalize the Canada Fund for Africa. I wish to emphasize that to place honourable senators in the position of having to choose between airport security on the one hand and development for Africa on the other, in the same bill, is not right.

Why did the government not present a separate bill for the Canada Fund for Africa? I am sure that Senator Bolduc implied in his comments that it would receive general support. Why is Africa tied in with airport security?

**Senator Cools:** Honourable senators, I thank Honourable Senator Roche for his question.

The honourable senator is absolutely correct. Bill C-49 is really a collection of bills. One could actually separate the items out and place them in separate bills.

In the interest of giving the senator some reassurance, I would like to share with him this fact. The government is being extremely zealous, careful, vigilant and diligent because the overwhelming opinion is that legislation was not necessary to set up this particular matter. It was the opinion of the government and the important ministers that they wanted to be sure it was in legislation because they are mindful of the fact that there are members of the National Finance Committee who keep posing questions to them, to wit: Why is it that such large expenditures

are being made without legislation? The ministry wanted to be sure that senators and members of Parliament would be absolutely assured that they were coming here to ask for the expenditure, to ask for the money in the form of a bill.

I would have thought that that would make people rejoice. I hope I have answered the question as to why there is a bill.

**Senator Roche:** I hope Senator Cools will not mind my saying that her answer was rather disingenuous. I suppose she gave the best answer she could. However, I do not accept her answer. I will not debate that point now. I said that I would only ask two questions, and here is the second question.

Why did the government not conduct a study on the economic impact of the air travellers tax? The honourable senator indicated that if the revenues exceed the expenses in connection with the administration of the tax, then the charge will eventually be reduced. That already indicates that the government does not know how much revenue the tax will actually raise.

Honourable Senator Cools said that the tax is put on travellers because they are the primary beneficiaries of airport travel. Would the honourable senator not agree that the primary beneficiary of airport travel in the age in which we live is the entire public? This is a matter of national concern, not the concern, in a primary sense, of the individual concerned. The individual is being penalized.

Would the honourable senator consider the impact of this tax on travellers between Edmonton and Calgary, which is a short distance but long enough to take an airplane? The deleterious consequences of this \$24 tax on a run between Edmonton and Calgary will certainly hurt the economy in both cities. That would have been found out had there been a study on the economic impact. Why was there not a study on the economic impact of a tax of such importance in today's world?

**Senator Cools:** Honourable senators, I thank the honourable senator for his question.

I take issue with the honourable senator's first statement to me. I wish to state for the record that simply because I gave an answer that the honourable senator did not like in no way makes my response disingenuous.

The honourable senator keeps referring to this charge as a tax. I am not too sure if he is doing that deliberately, if it is purely an affectation or if it is an accident. However, the legislation refers to a charge. The legislation, and the record should be crystal clear on this, refers to it as an air security charge. It does not call it a tax or a user fee. The term is "charge."

The benefit of the honourable senator's question is whether the government has really considered the impact of this charge on the pocketbooks and the purses of air passengers. Quite frankly, I think the honourable senator has a valid point. It is a worthwhile question and should be answered.

If the honourable senator were to look at clause 12(3) of the bill, he would see that the government has a proposition therein that the minister can reduce the amount of the charge. I think I made it quite clear in my remarks that it is the intention of the government to review the entire matter in the fall; and, if reductions are necessary, I think I can say the government would be looking at that with a high degree of seriousness.

I think that the government laid out the bill in a very systematic way. However, the fact of the matter is that the government has not had much experience in dealing with the situation that is now put before us in this bill. We have to be mindful of that. Quite frankly, I do not think any government on the continent, including the United States of America, has had much experience responding to the conditions, the emergencies and the problems that have been created by September 11.

● (1730)

In point of fact, the government is finding its way. Frankly, I am amazed and impressed that the government was able to respond as quickly as it has and in such a comprehensive and fair fashion.

**The Hon. the Speaker:** Honourable senators, I should point out that I have allowed Senator Roche to put a question to Senator Cools, with leave of the Senate. Other senators are rising. I will recognize first the Deputy Leader of the Opposition, Senator Kinsella.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, Senator Cools drew our attention to clause 12(3). There is no clause 12(3) in Part 1 of the bill. Was she referring to Part 2?

**Senator Cools:** Yes, Part 2, page 21. The bill, as I said before, is laid out in parts, and each part actually forms a bill. The clause 12 that I was speaking to is in Part 2, called the Air Security Charges Act. Each part may have a clause 12. The first part of the bill is the enabling authority and the constituting of the actual air transport authority agency.

Honourable senators, we are blessed and fortunate because tomorrow night, at the meeting of the Standing Senate Committee on National Finance, we have an unusual situation. We will have two ministers — not one, but two ministers — appearing before the committee to defend the bill. I would love to take the opportunity to invite all honourable senators to come to question these two ministers. The ministers are John McCallum, the junior Minister of Finance, and then a more senior minister, the Honourable David Collenette, Minister of Transport.

**Senator Kinsella:** I assume there is an assumption behind the last statement made by Senator Cools. She announced that these two ministers will appear before the committee. The assumption is that this bill will receive second reading.

**Senator Cools:** I was making a reasonable assumption that the bill will receive second reading. I was also making a very reasonable assumption that when the bill has received second reading and is referred to the committee, the two ministers will appear to satisfy and to answer all the questions that honourable senators can possibly put to them.

**Hon. Edward M. Lawson:** I should like to make a few brief comments. On the security issue, the premise is that this bill is to improve and expand on existing security. I can accept that. The question is the amount. The Americans have a maximum charge of \$10. Why is ours \$24?

**Senator Kinsella:** In American dollars.

**Senator Lawson:** That is only \$15.50 or \$16. It is still too high if one makes a straight comparison of U.S. to Canadian dollars. The Minister of Finance said he will review it in September. We know now some things that he will find when he reviews the charge, and one of them being that it is too high.

Senator Bolduc raised the issue about the south airport in Vancouver. I understand that part of the philosophy they are applying is that if you do not go through an airport, for example, with the heli-jets, then you will not pay. There is some merit to that. It makes some sense. Now we have the south airport. Remember that the premise is that this charge will improve and expand on existing security. Existing security at south airport is zero. What will it be the day after we pass the legislation? Zero. What will it be when it is reviewed in September? Zero. Where I come from, that is called taking money under false pretences. It should not happen. Paul Martin is a very good Minister of Finance, and he says the government will review it. If the government takes the money and give no benefit for it, what will they do? Will they return the money? Will the money be given back, at a huge cost to the government? I have never seen a track record of sending money back.

There are a number of concerns in those coastal communities. I can understand why they do not have security. When you get in an airplane late in the afternoon, they give you a plastic knife because they do not want you to have anything that resembles a real knife. Loggers do not have a plastic knife or a real knife, but they probably have an axe and a chainsaw. I understand why they may not want to go through security. We need to use common sense and be realistic.

Presently, some of the airport authorities have union contracts representing some of the workers. The usual thing in long-established, Liberal legislation is successor status. If Company A takes over Company B and there is an existing collective agreement, Company A inherits it. Is there such a provision in this legislation? No. There is zero protection. I suspect that when the government finishes, many of the existing contractors will probably still be there. They will be rehired or hired by the government instead of working for the airport authority, and they will bring in others, and that simple basic protection will be lost. They will not have it. That troubles me.



Another thing that troubles me is that I understand there is a provision for 11 directors on that board. The government said through the minister that there would be two representatives from Air Canada, which is good sound logic. There will be two from the airport authorities, which is good sound logic. The committee in the other place recommended two from labour. The minister knocked that, so they have zero representation. What is happening over there? What is happening with the government? In previous administrations, previous Ministers of Labour would not have brought in a piece of legislation that did not recognize that the success or failure of the program would depend on the cooperation and the ability of the workers to work with management to make it a success. First, you give them no security on successor status, and then the minister rejects the committee's recommendation and says no representation.

Who will be the other seven directors? I understand that the minister will select them, but if you want a successful program, does it not make sense to have either the workers or their representatives on the 11-man board? What is happening?

I have noticed in the last five or six years that there seems to be an attitude of "Let's not bother; the minister knows best, and he has the authority." He appears to be displaying a kind of arrogance that the workers should not be represented. I would urge the government when considering this legislation — it is not too late to make the appointments — to give some recognition to the people who will be largely responsible for the success of the program, which we must have if we are to have security. The government should not be taking money under false pretensions by promising to do things or to increase and expand security when there is zero security now and there will be zero in the future.

**Senator Cools:** It seems to me that the honourable senator's statement was more of an intervention than a question.

**The Hon. the Speaker:** Honourable Senator Lawson did not ask a question; it was an intervention. However, Senator Cools can ask him a question.

**Senator Cools:** Did the honourable senator intend that as an intervention, or did he intend it as a question?

**Senator Lawson:** I was not asking a question. I was expressing my views.

**Senator Cools:** I thought he was asking a question, and I was taking notes so that I could respond.

**Senator Lawson:** I did not want to take the risk. I was afraid the honourable senator might answer it.

**Senator Cools:** Do not worry, I will answer it when I close debate.

Senator Lawson, as we all know, has had great ties with labour. In his remarks, he did raise the question of the 11 board of directors of the new agency, the new authority, and he was proposing or concerned that two of them should be from labour.

I should like to ask the honourable senator the following question: Why would a statute be necessary for the minister to be able to appoint two directors from labour? The minister may choose to appoint many more than two. Who would know?

Why does the honourable senator believe it would have to be enshrined in statute for the minister to appoint two from labour?

• (1740)

**Senator Lawson:** I do not think it should necessarily be in statute. However, if there is a provision in the statute for two from Air Canada and two from the airport authorities, and if that is set as precedent, they should all be enshrined. If not, why would he reject the recommendation of the committee of the House of Commons to appoint two from labour? If it is going to be in the statute, they should all be covered. If it is not going to be in the statute, make the appointments.

On motion of Senator Kinsella, debate adjourned.

[Translation]

## QUESTION OF PRIVILEGE

### SPEAKER'S RULING

**The Hon. the Speaker:** Honourable senators, last Thursday, March 14, Senator Cools claimed a breach of parliamentary privilege in connection with debate on Bill S-9, the definition of marriage bill. The incident that sparked the Senator's claim occurred the previous day, Wednesday, March 13, when there was an exchange between the Senator and Senator LaPierre following the speech of Senator Wilson on Bill S-9.

[English]

In making her case, Senator Cools raised the following points. First, the senator maintained that the arguments of Senator LaPierre, when he spoke to Bill S-9 on March 6, were blasphemous and unparliamentary and called into question the motives of Senator Cools in sponsoring the bill. More important, Senator Cools alleges that through several exchanges that occurred between her and Senator LaPierre — some recorded in the *Debates of the Senate*, some not — Senator LaPierre showed disrespect to a justice of the British Columbia Supreme Court. In the view of Senator Cools, these remarks constitute a breach of privilege that could be properly remedied through a motion of apology addressed to the particular justice, were I to find that a *prima facie* question of privilege had been made.

[Translation]

In commenting on the case made by Senator Cools, Senator Murray noted that there was nothing on the public record that supported the contention of Senator Cools that Senator LaPierre had spoken disrespectfully of any judge. Senator Murray also suggested that in raising this question of privilege, Senator Cools seemed to be in a conflict with her own professed belief in the importance of protecting freedom of speech in the Senate.



Senator LaPierre then made some comments explaining his assessment of what had occurred last Wednesday. This was followed by brief interventions by Senator Lapointe and Senator Stratton.

[English]

Having reviewed the transcript of last Thursday's, it is my ruling that there is no *prima facie* case of privilege. The complaint raised by Senator Cools, as I understand it, is more in the nature of a point of order than a question of privilege. Insofar as it is founded in part on the remarks of Senator LaPierre of March 6, it is clearly out of date.

With respect to any comments that might have been exchanged between these two senators last Wednesday, these, too, might have been the object of a point of order at that time had they been on the public record. Be that as it may, senators should be mindful of the need to respect their colleagues' right to speak and should refrain from unnecessary interruptions.

The *Rules of the Senate* provide a mechanism for bringing a question of privilege to the attention of the Senate quickly. It is not a procedure to be invoked lightly. As rule 43(1)(b) and (d) state, any alleged breach must "be a matter directly concerning the privileges of the Senate" and it must "be raised to correct a grave and serious breach." Once proper notice is given in writing and then orally under Senators' Statements, a senator is allowed an opportunity to bring the alleged breach of privilege to the attention of Senate after Orders of the Day. In this instance, nothing I heard met the usual tests as described in our rules and the parliamentary authorities that would justify a claim to a breach of parliamentary privilege.

## SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES

### REPORT OF NATIONAL SECURITY AND DEFENCE COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the fifth report (final) of the Standing Senate Committee on National Security and Defence entitled: *Canadian Security and Military Preparedness*, deposited with the Clerk of the Senate on February 28, 2002.—(Honourable Senator Banks).

**Hon. Douglas Roche:** Honourable senators, this item stands in the name of Senator Banks, with whom I have held discussions. Senator Banks is in accord with my desire to adjourn the debate.

I do wish to speak to the centrality of the issue raised in the report concerning the need for a foreign policy review before a defence review. I should like to elaborate on the argument, but I need some time to prepare my remarks. Thus, I move the adjournment of the debate.

On motion of Senator Roche, debate adjourned.

[The Hon. the Speaker]

[Translation]

## THE SENATE

### MOTION TO AUTHORIZE BROADCASTING OF PROCEEDINGS AND FORMATION OF SPECIAL COMMITTEE ON RESOLUTION—DEBATE ADJOURNED

**Hon. Jean-Robert Gauthier,** pursuant to notice given December 6, 2001, moved:

That the Senate approve the radio and television broadcasting of its proceedings and those of its committees, on principles analogous to those regulating the publication of the official record of its deliberations; and

That a special committee, composed of five senators, be appointed to oversee the implementation of this resolution.

He said: Honourable senators, this is an issue which is topical. That the Senate approve the radio and television broadcasting of its proceedings is at the root of democracy. The experience of the House of Commons in this regard has been positive, and has been so since 1977. We must make the proceedings of the Senate known.

•(1750)

There are many myths outside this chamber. I would like us to be serious and broadcast our proceedings in order to allow Canadians to understand this institution, the Senate.

We are about to purchase television equipment, cameras, and so on. We need to do this in the context of a new provision that could provide Canadians with better information. Television is a hot medium. We need to use it. We do not make enough use of it. I will not talk about that, because it would provoke numerous debates. I want to revisit the fundamental issue, that of why we should broadcast the proceedings of the Senate and its committees on television. Our work would be better known, viewed more positively.

Honourable senators, I would like to adjourn debate in order to continue presenting my position in the Senate as regards this motion.

On motion of Senator Gauthier, debate adjourned.

•(1750)

[English]

## THE HALIFAX GAZETTE

### MOTION IN CELEBRATION OF THE TWO HUNDRED FIFTIETH ANNIVERSARY—DEBATE ADJOURNED

**Hon. B. Alasdair Graham,** pursuant to notice of March 14, 2002, moved:

That the Senate of Canada celebrates with all Canadians the 250th anniversary of Canada's first published newspaper, the *Halifax Gazette*, the publication of which on March 23, 1752, marked the beginning of the newspaper

industry in Canada which contributes so much to Canada's strong and enduring democratic traditions.

He said: Honourable senators, in the aftermath of Robert Mugabe's actions to design elections in Zimbabwe that the opposition could not win, much of the international community has been angered by such an arrogant display of contempt for the democratic process.

As one who has actively served in many countries in the cause of democratic development, I am only one amongst many who believe that the elections that were held were indeed designed to fail. Of course, any experienced election observer will tell you that dictators attempt to root out the fragile seeds of freedom first from the minds of ordinary people. Zimbabwe was no exception. In the course of the election campaign in that country, Mr. Mugabe and his supporters did what all dictators have done before them. His thugs used violence and intimidation of the worst magnitude against opposition forces. Less noticed, perhaps, was that much of the international press was run out of the country, and Mr. Mugabe implemented laws that severely curtailed press freedom.

Honourable senators, the existence of an open, lively, opinionated and broad-based newspaper industry is integral to the course and the cause of freedom in any country. In Canada, we boast more than 100 daily and 1,000 community newspapers with a total circulation of 5 million daily and 11 million weekly papers from coast to coast to coast.

As a Nova Scotian, I am proud to say that the industry was born in Halifax. Two hundred fifty years ago, on March 23, 1752, in a newly opened print shop in Halifax, a man by the name of John Bushell ran off a few modest copies of the *Halifax Gazette*. Our National Librarian, the distinguished Dr. Roch Carrier, who is in the south gallery, was kind enough to bring prized copies of that first edition, and they have been made available at the desks of all honourable senators.

In John Bushell's day, the town of Halifax had been in existence for only three years. It was, as Ronald Rompkey of Memorial University — the younger brother of our own esteemed Senator Bill Rompkey — tells us, a small British garrison established to offset the fact that the Treaty of Aix-la-Chapelle of 1748 had compelled Britain to give the Island of Cape Breton back to France, hence finding themselves strategically exposed.

When the *Halifax Gazette* was born, a commercial and political society had begun to develop. John Bushell's rather inauspicious and modest publication was largely supported by the colonial government. Employed as the King's Printer, much of Bushell's income came from the commissions to produce copies of new laws and proclamations.

Crowded with shipping news, the equivalent of classified advertising at the time, localized information relating to the town's position as a trade centre and political articles scalped from British publications, sometimes months after they had originally appeared, the *Halifax Gazette* of the period is a delight to fascinated readers of today.

I might add that all Canadians may take the time to have a look at one of the first issues of the paper, so beautifully preserved by the National Library at the National Library. Beginning tomorrow, it will be on public display until the end of June. This small sheet of foolscap will catapult us back over centuries because newspapers have always been, as Ben Bradlee once said, a rough draft of history.

**The Hon. the Speaker:** Honourable senators, I am sorry to interrupt Senator Graham. I must draw attention to the clock. It is six o'clock.

Is it your desire not to see the clock, honourable senators?

**Hon. Senators:** Agreed.

**Senator Graham:** I thank honourable senators.

As far as it is known, the Halifax paper is the third oldest on the North American continent.

Honourable senators will understand very well that at the time of Bushell's death in 1761, the whole thrust of journalism would change, as the political ferment which culminated in the American revolution against Great Britain would change forever what became known as the fourth estate.

[Translation]

The ability of the press to influence the hearts and minds was clearly demonstrated by the famous publisher Benjamin Franklin's attempt to found a rebellious newspaper in Montreal, under the auspices of the Frenchman, Fleury Mesplet. This fascinating chapter of our history culminated in the founding of the *Montreal Gazette*, *La Gazette de Montréal* by Mesplet in 1785. As Senator Joan Fraser can confirm, having been its eminent editor-in-chief at one point, this daily paper is the oldest newspaper still being published in Canada.

• (1800)

[English]

Honourable senators, had it not been for the fact that the *Halifax Gazette* briefly lost its government patronage in 1766, when, due to the lead up to the American Revolution it challenged British authority by publishing an issue of the paper without the required official stamp, what is now the *Nova Scotia Royal Gazette* would have beaten out its Montreal rival by over two decades.

In a wonderful little piece entitled "Canadian Newspapers: Celebrating 250 Years," Mr. Stephen Kimber, Director of the School of Journalism at the University of King's College in Halifax, made the point that Bushell was certainly no Joseph Howe, the legendary Nova Scotia editor and statesman who won freedom of the press in Canada. Honourable senators will recall that Mr. Howe, through the columns of his paper, the *Nova Scotian*, fought the lucid, courageous struggle for responsible government in the 1830s and 1840s.



Joseph Howe was one of the Fathers of Democracy in Canada, along with Louis-Hippolyte Lafontaine and Robert Baldwin of the United Canadas of the time. One of his friends and colleagues was a man by the name of John Boyd, a second-generation Scot who founded the *Antigonish Casket* in 1852. The *Casket* serves as the local weekly paper for Antigonish and the surrounding counties, with a present-day circulation of over 7,000.

At its peak, the *Casket* enjoyed a circulation of over 12,000, with over 400 copies mailed to expatriates from Nova Scotia who were living in the State of Massachusetts — or in the “Boston States,” as we sometimes called them.

Over the years, as you might expect, the name “Casket” evoked curious queries from thousands of puzzled readers from many corners of the globe. Honourable senators, let me explain. When it was founded, the word “casket” commonly referred to a lady’s jewel box, and it was not until the turn of the century that the word “casket” was used in reference to a coffin. To this day, the masthead of the *Casket* continues to be a picture of a jewel box overflowing with jewels, with the paper’s motto, unchanged since 1852, directly above: “Liberty — Choicest Gem of the Old World, Fairest Flower of the New.”

On June 23 of this year, the *Antigonish Casket* will celebrate the 150th year of its founding. I had a special interest in the *Casket* from the days when I was the editor of the St. Francis Xavier University student newspaper, *The Xaverian Weekly*, which was published by the Casket Printing and Publishing Company. The *Casket* also served as an important part-time breadwinner for the growing Graham family. I started there as a student and continued for several years as news editor and as sports editor, largely through the encouragement and patience of the wonderful publisher Mr. Donald L. Gillis, who, faithfully and with great editorial and business skills, managed the establishment for 53 years.

Sidebars on the *Antigonish Casket* would not be complete without mentioning that, during his student days in Antigonish, our colleague, Senator Lowell Murray, at one time had the lofty title of Assistant to the Editor. No one knows if he was ever paid.

The *Casket* was and is a wonderful paper, and the traditions and history associated with it are all part of a proud lineage. At the time of its founding 150 years ago, Nova Scotia had won responsible government and Joseph Howe was the province’s first premier.

The fact that Howe was still alive was rather astonishing. In his day, duelling was on the wane in Nova Scotia, but a gentleman still found it difficult to lose his self-respect by refusing a duel. In the famous response to John Halliburton’s challenge in 1840, Howe found himself the winner as Halliburton fired first and missed. Howe then fired his pistol into the air, sparing his opponent’s life. He was then challenged to a second duel in the same year. In refusing this second challenge, the relatively youthful editor of the *Nova Scotian* reportedly said that “a live editor is more useful than a dead hero.”

[ Senator Graham ]

In so many ways, this off-handed remark contains a wisdom that is well worth thinking about today. Perhaps on this wonderful two-hundred fiftieth anniversary of the founding of the first newspaper in Canada, it can be put in a broader context.

As Canadians, honourable senators, we are privileged and blessed to be one of the oldest democracies in the world. A free and unfettered press is one of the primary buttresses of our way of life. Too often we tend to forget the brave struggles of centuries ago fought through the power of the printing press and the leadership of editors and journalists of conviction.

However, we must be sensitive to the fact that new democracies are now undergoing the same critical transitions to civil societies that Joseph Howe was so intensely involved in so long ago.

As I have thought about the Zimbabwe of this world, my mind goes back to a conversation I had with the editor of a tabloid newspaper, *ABC Colour*, in Paraguay over a decade ago at the conclusion of elections that served as stepping stones to further democratization in that country. In praising the role of the international observer teams sent to monitor the 1989 elections, the editor said to me, personally: “But you cannot love us and leave us. President Rodriguez has promised a new constitution, a free press, electoral reform and a new code of human rights. You must monitor the situation on a continuing basis to ensure he lives up to his promises.”

Honourable senators, I have never forgotten his words and the poignancy with which he made his case — only one individual example of the many courageous leaders of democracy across the globe that I have been privileged to meet. I related the story in a book that I wrote about democratic development entitled, *The Seeds of Freedom*. Of further interest, perhaps, the book was printed for the Pearson Peacekeeping Press at the *Antigonish Casket*, which, I have already said, is a fine old newspaper born at a time when Nova Scotians and Canadians were beginning to nurture the beautiful, still fragile flower of democracy.

As we reflect on this celebration of the roots of our own freedom and the rich civil society we have today, we must remember all of those who are persecuted and oppressed, and we must remember that after the elections we cannot love them and leave them.

Honourable senators, I would like to thank the National Library of Canada, which has worked so hard with provincial groups and institutions in Nova Scotia and here in Ottawa to commemorate the early beginnings of the *Halifax Gazette* and the seeds of a democratic tradition in Canada. The National Library is responsible for ensuring that Canadians have access to their newspaper heritage. In doing so, the library is the repository of much of what we are and much of what we have come from. In carrying out their responsibilities, the talented staff of the National Library of Canada do much to nurture the soul of this great country, preserving our unique and distinct identity for our children and our children’s children yet to come.



• 18

In closing, I should like to salute and thank, on behalf of all Canadians, the National Librarian, Dr. Roch Carrier, who is with us in the Senate gallery this evening.

**Hon. Senators:** Hear, hear!

**Hon. John Buchanan:** Honourable senators, I did not think I would get a chance to speak on this item.

First, I want to second the motion of Senator Graham. In so doing, I wish to point out that the honourable senator has already said everything that I had wished to say. That is unusual because over the years that I have known him, he would usually follow me and repeat what I had to say. Here, however, it is the reverse. What he has said, I was going to say. Nevertheless, I do have some different things to say this evening regarding this motion.

**Senator Graham:** I would hope so!

**Senator Buchanan:** The honourable senator has already outlined the history of the *Halifax Gazette* for honourable senators. I wish to add that all good things did happen first in Nova Scotia and then moved from the Atlantic out to the West. I can tell senators about all the firsts that happened in Nova Scotia.

How many of honourable senators know that the first permanent European settlement was at Port Royal in the Annapolis Valley just outside Annapolis Royal? Governor Graham of Florida challenged me on that when I made that statement at a meeting in Boston. Later, I read an article from the New England governors that said that the first settlement was in Massachusetts in 1619. Well, in Nova Scotia, we had that settlement in 1605. At the National Governors Conference in 1984, in Boise, Idaho, I told Governor Graham, "Did you know that we had the first settlement in North America at Port Royal?" Governor Graham turned around and said, "I told you before that your statement is incorrect." I then pulled out the brochure that the New England governors incorporated and read it. I then said "Here! They say it was 1619 in Massachusetts. Therefore, you are wrong; I am right." He looked at Governor O'Neill of Connecticut and said, "Do you know what? I never did trust you Yankees and I still do not." We did have the first settlement there.

Honourable senators, that is not all. Nova Scotia had the first representative government. We also had the first responsible government, as Senator Graham said, which was led by Joe Howe. He started it all. In speeches I made over the years, I would say that we had the first responsible government in North America and we still have a very responsible government in Nova Scotia. Some may not have agreed with that, but it was all true.

Honourable senators, the first wireless message sent by Marconi from North America to Europe came from Table Head and not from Newfoundland, because he said one letter was received. We sent a full message from Cape Breton. Also, the first landing by John Cabot occurred in Cape North, Cape Breton

and not in Newfoundland. We have a plaque to prove it. In fact, I unveiled that plaque! We have a plaque at Table Head that I unveiled, too. I used to ask Brian Peckford, "Do you have a plaque?" He does not have a plaque; we have one!

In addition to that, Joe Howe made a famous speech once. He said, "Brag about your province, boys. Whenever you need meet a Texan who tells you how big everything is in Texas ask him, 'How high are you your tides in Texas?'" We have the highest tides in the world — another first for Nova Scotia!

**An Hon. Senator:** You share that with New Brunswick.

**Senator Buchanan:** Oh, no, Nova Scotia.

In addition, I wish to talk about the electric lights that we see in this chamber and all over the country. I am not saying that Tom Edison invented them in Nova Scotia. I am not saying that at all. Furthermore, I am not saying that Tom Edison was from Nova Scotia. But his father was. They moved from Digby County, Nova Scotia, to Boston, where he was born.

Honourable senators, we had all those firsts in my great province. I also wanted to say that we had the first newspaper in Canada and the third in North America. It was put together by John Bushell. I am extremely pleased and proud to second this motion.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rose before but I know that all honourable senators wanted to take copious notes during that last intervention.

I am sorry that His Honour has left the chamber because in the copy of the *Halifax Gazette* dated March 23, 1752 and which was circulated this afternoon in this house, under the "Foreign Advice" section there is an item that is datelined "Rome, September 24." It says:

A Few Days ago, as the Pope was going in his Coach to the Quirinal, an ordinary man kneeled in the Street upon his Knees as if he wanted to receive a Blessing from him, which as he was going to give, the Man threw a Stone at His Holiness...

The point I wanted to make is that a few days ago His Honour led a group of our colleagues to the Quirinal, which is now occupied not by the Pope but, rather, by the President of the Italian Republic, President Chiampi. In the building beside the Quirinal, we also visited the President of the Constitutional Court of Italy, which is contained in another former papal building that is now part of the Italian state. In that particular building at the Quirinal, the President of the Constitutional Court of Italy took the Honourable Senator Hays and the group to the room in which the last death sentence was imposed by the papal court. It is interesting that we have this item circulated in the Senate of Canada today from this paper of 1752, and one of the news items speaks to a matter that involved a visit of our colleagues only a few days ago. I wanted to place that on the record.

On motion of Senator Corbin, debate adjourned.

[Translation]

### FISHERIES

#### COMMITTEE AUTHORIZED TO STUDY MATTERS RELATING TO OCEANS AND FISHERIES

**Hon. Gerald J. Comeau** moved, pursuant to notice given on March 14, 2002:

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to oceans and fisheries;

That the papers and evidence received and taken on the subject during the First Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee submit its final report no later than June 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, in order to allow our subcommittee time to finish examining all budgets submitted by the committees in order to determine what resources will be required, I move adjournment of the debate.

On motion of Senator Robichaud, debate adjourned.

The Senate adjourned to Wednesday, March 20, 2002, at 1:30 p.m.



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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT •

VOLUME 139

• NUMBER 99

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OFFICIAL REPORT  
(HANSARD)

Wednesday, March 20, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

## OFFICIAL REPORT

### CORRECTION

**Hon. Roch Bolduc:** Honourable senators, I would like to make to corrections to the *Debates of the Senate* for yesterday, Tuesday March 19. The first mistake is in the French edition, on the tenth line of page 2452. It reads as follows:

Nous avons remédié au problème immédiatement après, parce que le roi l'a accepté.

I was not referring to the king, but rather to the government of Mackenzie King. I do not blame the translators; I know that I speak quickly sometimes.

The second correction is on page 2456, at the end of the second-last paragraph:

Nous risquons d'être confrontés à certains problèmes comme cela s'est produit dans le cas système de chauffage.

This should read "dans le cas de l'allocation pour l'huile à chauffage" instead of "dans le cas du chauffage." Accordingly, in English, the sentence should read as follows: "So we might have some problems, like we had with the credit to offset heating costs."

## THE SENATE

Wednesday, March 20, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### THE HONOURABLE LOIS M. WILSON, O.C., O. ONT.

#### TRIBUTES ON RETIREMENT

**The Hon. the Speaker:** Honourable senators, we begin today's session with tributes to the Honourable Lois Wilson, who will retire on April 8 of this year.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I rise today to pay tribute to a friend and colleague. How can we speak about her? We can call her "the honourable," or "senator, the honourable" or "the very reverend." What Senator Wilson is, of course, is a very special person. For the purposes of this endeavour, we shall refer to her as "the Very Reverend Lois Wilson."

If I were to offer a brief description of this woman, I would call her small, but mighty, because that is truly what she represents. Her accomplishments in the human rights and ecumenical movements are legendary. She was an important voice on the Standing Senate Committee on Human Rights and a strong advocate on its formulation in this chamber.

The Very Reverend Lois Wilson became the first woman president of the Canadian Council of Churches and the first Canadian president of the World Council of Churches.

Like many honourable senators, I first learned of Lois Wilson when she became the first female moderator of the United Church of Canada. For those of us out there trying to blaze trails for women, this was a mighty first in terms of what she had accomplished. The Very Reverend Lois Wilson had been, for some years, part of what I believe was the very first husband-and-wife team ministry in the United Church. Senator Wilson served with the Canadian Institute for National Peace and Security, and as chair of International Centre for Human Rights and Democratic Development. Senator Wilson was also an advisory board member for 10 years with Amnesty International.

In 1984, in partial tribute to many of these achievements, Lois Wilson was made an Officer of the Order of Canada. The following year, she was awarded the Pearson Peace Prize by the United Nations Association in Canada, and the World Federalists Peace Award.

Senator Wilson's life has been dedicated to the service of others. She has worked her entire life to advance the state of humanity by defending our rights and fostering respect for all religious faiths. She has been motivated by an unwavering

determination to improve our world by manifesting the ideals and values that we all share but have been unable to implement successfully, such universal values as peace, love and above all respect for each other.

Despite all her public achievements, I am certain that Senator Wilson would count her family, her husband Roy, their four children and 12 grandchildren, as among her most important accomplishments.

We wish Senator Wilson the very best in all future endeavours and offer our sincere thanks for her exceptional contribution to this place because exceptional people make exceptional contributions, and she is indeed an exceptional person.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, as indicated by the Honourable Senator Carstairs, the Honourable Senator Wilson will be taking her leave from the Senate of Canada. Thus, I rise to express, on behalf of my colleagues and the opposition benches, and in my own name, our appreciation for the service that this remarkable woman has so unselfishly rendered in this chamber and to so many beyond these walls, whether in Canada or abroad.

The Very Reverend Lois Wilson has been an engaged humanist in many houses, that of her family, her church and of this Upper House of Parliament. She has been an independent activist in family life as wife and mother, in church life as the moderator of the United Church of Canada, and in Parliament as an independent senator.

Honourable senators, students of democracy and freedom have always asked *quis custodes custodiet*, which translates to "who shall guard the guardians of the state"? The answer is to be found in exemplary leaders such as Senator Lois Wilson, a leader in the community who learned at an early age the great lesson taught by Edmund Burke, who stated, in 1771: "The greater the power, the more dangerous the abuse."

Senator Wilson has always been and will always be an important player as a defender and guardian against abuse. Our very reverend colleague can be singled out because of her fortitude and sense of service and for her dedication to community and civic duty.

Shortly after being summoned to this chamber, Senator Wilson made the following statement:

I was reminded that I bear the same name as the first woman senator — Wilson — and that I therefore have large shoes to fill. I'll do what I can — co-operatively with all of you, honourable senators, in bringing wholeness to a broken world by addressing international human rights in their broadest sense.



I am sure all honourable senators will agree that Senator Wilson has filled those shoes admirably and achieved the goal of furthering the cause of human rights. Senator Wilson was instrumental in establishing the Parliamentary Human Rights Group and served as the first co-chair, along with Member of Parliament Irwin Cotler.

• • •

Throughout her life, Senator Wilson has played a role on the international stage, a role that continued during her tenure in the Senate when the Government of Canada asked her to be the country's Special Envoy to the Sudan Peace Process, to head Canada's delegation to China concerning religious freedom in 1999, and in the year 2000, to head Canada's delegation to the Democratic People's Republic of Korea to explore the normalization of diplomatic relations.

First and foremost, honourable senators, Senator Wilson was a front-line activist. Whether hiding names of people, in her shoe, to be turned over to Amnesty International, or smuggling money into South Africa for the trade unions, or marching arm-in-arm with mothers of the "los desaparecidos" in Argentina, she has put her convictions above her own personal safety in order to further the causes she holds so dear.

The promotion and protection of human rights has a passionate advocate in the person of Senator Wilson. I am confident that she will be a strong voice in defence of human rights, in all corners of the world, for many years to come.

Honourable senators, as we bid Senator Wilson farewell from this chamber, we express our encouragement and solidarity with her as she continues to prosecute her human rights mission.

Lois, in that continuing journey, we all wish you Godspeed.

**Hon. Douglas Roche:** Honourable senators, the well-established separation of church and state in our political system has, unfortunately, led many to believe that religion has no place in public affairs. However, to argue that the spiritual values of love, respect, tolerance and compassion that underscore the agenda for social justice are not needed in public discourse would be to deprive the political process of the fullest understanding of humanity; that should be our foremost concern.

Fortunately, there are individuals in public life who do understand how our lives, as citizens, are enriched by the protection and advancement of those attributes of human dignity, implanted in us by a creator.

Senator Lois Wilson is a witness to the bonding of values and politics. If you type Lois Wilson's name into a search engine in your computer, an astonishing array of her activities can be seen in an instant. She was a United Church minister for 37 years; President of the Canadian Council of Churches; first woman Moderator of the United Church of Canada; the first Canadian president of the World Council of Churches; President of the World Federalists of Canada; Chancellor of Lakehead

University; Chairman of the Board, International Centre for Human Rights and Democratic Development; board member of Amnesty International; Victoria University, Toronto; Institute for International Peace and Security; Environmental Review Board for the Disposal of Nuclear Waste. She has been a senator since 1998 and, in this capacity, Canada's Special Envoy to the Sudan Peace Process and head of delegations to China, to examine religious freedom, and to North Korea, to explore normalization of diplomatic relations.

On top of all this, she is the author of six books, the recipient of the Order of Canada, the Pearson Peace Prize winner and, as Senator Carstairs has noted, foremost, the wife of the Reverend Dr. Roy F. Wilson, and she has four children and 12 grandchildren. A full life, indeed.

However, this is not a eulogy. Lois Wilson takes her leave of the Senate, but not her activist life. One might be tempted to say that this independent-minded person will now be freed of her obligation to appear in the Senate chamber so that she can spend even more time pursuing the human rights agenda that has won her world acclaim. Lois Wilson may be tiny of stature, but she is a giant in plodding through the thorny bushes that scar the human landscape. As Marion Parry, the present Moderator of the United Church in Canada, told me this week: "Lois' stature in church and society reaches gigantic heights through her contribution to theological education and her prophetic witness as a provocative writer, global educator, and engaging preacher."

While the quantity of her work is impressive, to say the least, it is the quality I wish to highlight here. Take, for example, her work as a panel member for the federal environmental assessment review of the proposed concept to bury high-level nuclear waste in the Canadian Shield. Not content with merely learning the technical complexities of the nuclear waste problem, Lois wrote a book, *Nuclear Waste: Exploring the Ethical Dilemmas*, to help the public understand the ethical options that must be faced.

In this book, Senator Wilson frankly reveals the passionate commitment she brings to social and ecological justice. Here is but one sentence revealing her philosophy:

The believing community must always be a source of permanent unrest and disturbance in society, allowing nothing to silence or dissolve it.

Her advocacy for the rights of Aboriginal peoples, fearing yet another incursion into their land, is one of the many legacies she leaves us as the Senate takes up its consideration of Bill C-27.

Following her philosophy of afflicting the comfortable and comforting the afflicted, Lois plunged into the political quagmire of Sudan, working with both churches and governments to stop the genocide in that benighted land. Sudan has the dubious distinction of having far more internally displaced people than almost any other country. It cries out for a peace initiative, and that is how Lois responded.

Similarly, Lois took a Canadian team to North Korea last year as a first step toward normalizing relations with one of the last holdouts in the communist world. She journeyed through the countryside and saw an economy in virtual collapse. Rather than labelling North Korea as an "axis of evil," she set to work with government officials on an overall coordinated plan for recovery. This is one more manifestation of a central tenet she holds: If you want peace, prepare for peace.

It was probably her vast experience in analyzing the threats to human rights on the front lines that led her to campaign so hard for the establishment of the Standing Senate Committee on Human Rights and the parallel body, the Parliamentary Human Rights Group. This has been a solid accomplishment, indeed.

She understands intuitively that the political agenda for social justice must be based on an integrated agenda that respects human rights in all its dimensions. She injects into this process the moral values of mutual respect, caring and equity. She presents herself as an ecumenical Christian, one who reaches out to people everywhere to respond to their joys and hopes, their grief and anxieties, and especially to those who are poor and afflicted.

In short, Lois Wilson is an outstanding example of a whole person.

George Gershwin, the great musical composer, wrote a memorable song containing the words: "Who could ask for anything more?" As we salute Senator Lois Wilson today, I say, who could ask for anything more?

• (1350)

**Hon. Lois M. Wilson:** Honourable senators, it is with gratitude, pride, and some small measure of satisfaction and work accomplished that I take my leave of you in this chamber.

Many of you have had far more political experience in policymaking than I have had. From you I have learned a great deal, and my learning curve, since being appointed to the Senate almost four years ago, has been steep and satisfying. Pearl Buck, on her eightieth birthday, said, "I am a far more valuable person than I was 50 years ago. I have learned so much since I turned 70. Indeed, I can honestly say I have learned more in the last 10 years than in any previous decade." For me, the learnings of the past four years have been extensive and fun, as they have been for my children and grandchildren, some of whom may be seated in the gallery.

When I was appointed, I knew none of you well, and I knew nothing of Senate procedures. The poet W.H. Auden says, "At twenty we find friends for ourselves, but it takes Heaven to find us one when we are 75." Forging friendships always opens up new windows for the soul, and I value those friendships, particularly those made with colleagues on committees. I will greatly miss my staff and especially Doreen Jones, without whom I could not have done one-quarter of what I have accomplished, as well as, I might say, the assistance of my

unpaid secretary at home — my husband — who keeps agitating for a raise in salary. It helped a lot when I was told that the procedure was much like a church ritual — you simply had to know whether the offering should precede or follow the sermon. I have also appreciated the repartee with the security guards and the energy and zest that pages bring to the Senate.

For the opportunity and pressure to keep learning and for the opportunity to bring my professional life experience to this chamber, I am grateful. I leave proudly aware that the ecumenical, interfaith and non-governmental communities in Canada, with whom I work on societal issues, now know in greater detail just how to connect with government and its legislative processes. Publishing my Senatorial Saga every four months revealed to me that few of the recipients had any notion of the wide spectrum of issues that the Senate deals with. I continue to observe that Ottawa governmental circles whirl around in their own orbit, unaware and largely disconnected with the concerns of the ecumenical community or of the non-governmental clusters, such as Canadian Pensioners Concerned, or of the Centre for Equality Rights in Accommodation, or of folk living in remote villages in Northern Ontario. At least I have had a shot at facilitating that interface and that necessary connectedness. I have had a unique opportunity to see and be part of the legislative process, and to share with my constituency not only how government works well, but also how it frequently falters and sometimes stumbles.

I leave also with some sense of anticipation, not because I am tired of being in the Senate, but because every turning in life brings with it new opportunities, most of them unknown. I hold with Macbeth, who said, "I look forward to that which accompany old age, as honour, love, troops of friends." What he did not say is, and more time to go canoeing!

When I was appointed, I said in my maiden speech to the Senate that I would do what I could, in cooperation with honourable senators, to bring wholeness to a broken world. Knowing that my time in the Senate was extremely limited and that, as an independent senator, I needed to carve my own niche if I was to survive, let alone contribute to the whole, I decided on four focuses for my work, and those I have tried to keep: first, Canada's foreign policy and record in international human rights; second, support for the aspirations of the Aboriginal peoples in Canada; third, facilitating civil society as it emerges more and more strongly as a constructive partner with government on policy issues; and fourth, advocacy for an equitable and just role for women.

Honourable senators, the next portion of my address should be labelled "Unfinished Business" because all my work has been work in progress, and it will continue after I have left.

First, my lifelong commitment to human rights is reflected in the establishment of the Standing Senate Committee on Human Rights of this chamber. Since the committee's focus is reviewing the mechanisms of government dealing with Canada's international and national human rights obligations, and not simply obvious emerging human rights violations, it will be some



time before we reap the fruits of the work of this important committee. I deeply regret not being able to continue as a committee member, but I have full confidence in its leadership, as do many human rights agencies and interests across this country.

There has been a great deal of satisfaction for me in co-founding the Parliamentary Human Rights Group with Irwin Cotler, M.P. Because of its inclusion of senators, members of Parliament and NGOs, it has been able to create an energetic exchange between these various groups on human rights issues. There is planned a publication of the seven expert presentations already made to this group over the last year and one-half, and all of you may avail yourselves of that publication when it sees the light of day, probably in the fall. The group will continue to meet under the leadership of Senator Oliver, Irwin Cotler, and an executive drawn from all political parties.

Second, my appointments by the Minister of Foreign Affairs have been made because of my global church background. The highlights for me have been my appointment as Canada's Special Envoy to the Sudan and my leadership of two government delegations — one to China on the issue of religious freedom and the other to the Democratic Peoples Republic of Korea just before diplomatic relations were established. I was also appointed to monitor the elections in the Chiapas Province in Mexico and to be an observer at the UN Human Rights Commission in Geneva. I intend to pursue some of these interests as a private citizen, and I will likely come back to haunt some of you for not demonstrating more involvement.

I also served on the Standing Senate Committee on Aboriginal Peoples for some time because I think it is the single most important human rights issue Canada must face, and I will continue to follow proceedings with great interest.

Much of my work has been in facilitating access for NGOs to government officials or ministers and assisting the members of civil society to understand the systems of governance. This cannot be done by short-term appointments; I am glad that I had four years so that I was able to make some progress.

I am also glad that negotiation with the Prime Minister's Office allowed me to be appointed as an independent senator. People always want to know what I expected from the Senate and what I found on arrival. I replied that before my appointment I was assured from all sides that this body was non-partisan, but I discovered, to my disappointment, that this is not entirely so. I have always felt that parliamentary reform needs to take place for both the House of Commons and the Senate. I hope that some senators, who have a much longer tenure than was accorded me, will take up this work with enthusiasm. Individual senators do some impressive work, but the reform of the institution, as such, is necessary to restore credibility to the political process, at least in the mind of the public.

My fourth piece of unfinished business includes issues concerning women. Despite the 33 per cent female component of the Senate, it still falls short of the desired 50 per cent. I was honoured to be the Canadian woman, along with women from England and Ireland, on a panel discussing the situation of contemporary women that the Canadian High Commission

mounted in London, Leeds and Belfast, in December 2000. For the last six months I have been engaged with the Canadian Initiative on Women, Peace and Security, which concerns the implementation of UN Security Council Resolution No. 1325, calling for the full and equal participation of women in all matters related to peace and security. I was delighted when Senator Jaffer agreed to carry on this important work.

What about the future? I am not worried about filling my days. The academic and who-done-it writer, Carolyn Heilbrun, author of *The Last Gift of Time*, which I thought I had better read, said: "Don't worry about the whole ballet. Just dance the next few steps." I rest in the observation of that great detective writer and theologian, Dorothy Sayers, who wrote: "Time and trouble will tame an advanced young woman, but an advanced old woman is uncontrollable by any earthly force. It is gratifying not to have been tamed."

I thank you for all the days we have had together. I appreciate the tributes that you have paid to me on this special day. I look forward to the days ahead.

[Translation]

I appreciate the tributes paid to me on this very special day and I am anxious to see what the future will bring.

[English]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in the gallery of June Freeman, George Freeman, Nora Casson, the Honourable Sheila Finestone and numerous other guests of the Honourable Senator Wilson. In the name of all honourable senators, I welcome you to the Senate.

•(1400)

[Translation]

## SENATORS' STATEMENTS

### INTERNATIONAL FRANCOPHONIE DAY

**Hon. Rose-Marie Losier-Cool:** Honourable senators, today, March 20, is International Francophonie Day. I wish to draw honourable senators' attention to Canada's contribution to the International Francophonie. Canada was one of the founding members of the Agence intergouvernementale de la Francophonie. It has taken an active role in the establishment and development of a number of institutions within the Francophonie.

As one of the 55 member countries of the Francophonie, which have in common the use of the French language, Canada has ensured for itself a lead role on the international scene. All Canadians can appreciate their country's unique contribution to the development of a modern international Francophone community characterized by its diversity.



The Francophonie is above all a community of peoples who, to various degrees, speak or use French in their lives or their international relations. Whether from Marseilles or Montreal, Martinique or Main Street, Moncton, we all speak French, each in our own particular accent.

As the Acadian writer Antonine Maillet so aptly put it, these different accents are like the various instruments that make up an orchestra and produce magnificent symphonies together. It is this linguistic symphony I love so much, this Francophonie I so love to defend.

This October, the IX<sup>e</sup> Sommet de la Francophonie will take place in Beirut, Lebanon. The summit's theme is "Dialogue of cultures. Together but different. Living together with our differences." This is the challenge Lebanon would like to take up at the next summit, in conjunction with the International Francophonie.

I encourage everyone to celebrate this Journée internationale de la Francophonie with other Francophones or Francophiles.

**Hon. Marie-P. Poulin:** Honourable senators, as Senator Losier-Cool said it so well, today, on this Wednesday, March 20, International Francophonie Day is being celebrated throughout the world.

This is the fourth year that thousands of Canadians from all ages take part in activities designed not only to show that we share a beautiful language, but also to reflect all of the cultural diversity it expresses.

Honourable senators, the term "francophonie" was coined more than 120 years ago by French essayist Onésime Reclus. Mr. Reclus used the word to describe the regions where French was spoken. Now, this term, used with a capital "F", includes not only the 170 million French-speaking people, but also the 500 million people living in the 55 states and governments, on five continents, that are members of the Organisation internationale de la Francophonie.

As a French Canadian from Sudbury, Ontario, I am proud to wish everyone a very good Francophonie Day.

[English]

### THE HONOURABLE MARISA FERRETTI BARTH

CONGRATULATIONS ON RECEIVING THE COMMANDER  
OF THE ORDER OF MERIT OF THE REPUBLIC OF ITALY

**Hon. Bill Rompkey:** Honourable senators, I wish to draw to your attention honours that have come to two distinguished members of this place. The Italian government has honoured Senator Ferretti Barth with an award of distinction. It is before me in Italian, but I will not read it as not only do I not speak Italian or French, I am still working on my English. I will read it in English. It is Commander of the Order of Merit of the Republic of Italy.

This is the third most important honour in Italy. It has been awarded to very few women or persons of Italian descent living outside the country. I am told that Senator Ferretti Barth is the only Canadian to receive this award. It is given to her for her dedication and tireless work with neglected persons and elderly people of the Italian and other cultural communities. We are very proud to have her with us in this chamber, and we honour her today.

### THE HONOURABLE THELMA J. CHALIFOUX

CONGRATULATIONS ON RECEIVING WOMAN OF VISION  
OF THE YEAR AWARD OF ALBERTA

**Hon. Bill Rompkey:** Honourable senators, I also wish to call your attention — and I must give equal time to each of these impressive women — to Senator Chalifoux. The Woman of Vision award is presented to women who have made contributions both in their careers and their private lives that have positively affected Albertans and all Canadians. It is the seventh year the award has been presented. This year Senator Chalifoux has been chosen as the Woman of Vision for Alberta and for Canada, and we salute her.

Those of us who have travelled with the senator in Alberta will understand why this honour has been awarded to her. After a caucus meeting, some of us spent a day with Senator Chalifoux in Edmonton visiting Aboriginal groups. We know the depth of respect accorded her, so we are not surprised that this honour has come to her.

### THE LATE DALTON CAMP, O.C.

TRIBUTE

**Hon. Laurier L. LaPierre:** Honourable senators, I rise to express my sorrow at the passing of my friend Dalton Camp. I valued his friendship. Above all, I valued his astonishing capacity with the words he used to explain the conditions of our national soul and to keep Canadians in touch with what was happening in our country. I will miss time spent in Alan Fotheringham's house enjoying a drink — not him of course, nor I — and engaging in very important conversations. His contribution to our country and its citizens has been invaluable. I will miss him.

Every night, when I look at the stars and see a light flashing through the sky, I know it is not Mr. Diefenbaker chasing Dalton Camp; it is Dalton Camp trying to rearrange the stars —

[Translation]

— in his own way. To the members of his family and to all his friends —

[English]

— I send Dalton a big hug.

[Translation]

[English]

## INTERNATIONAL FRANCOPHONIE DAY

**Hon. Lucie Pépin:** Honourable senators, today, March 20, 2002, the Francophonie celebrates its international day. On this unique occasion, this great community of peoples spread out across the five continents gets together and celebrates the beautiful language we have in common.

According to the official statistics, there are some 170 million Francophones throughout the world, but there are also 500 million people living in the 55 countries and states of the Organisation internationale de la Francophonie. Millions of men and women in the Americas, Europe, Africa, Asia and the Indian Ocean are therefore celebrating their membership in the French-speaking community today.

This year, the International Francophonie is paying tribute to Léopold Sédar Senghor, one of the founding fathers of the Francophonie, who died on December 20, 2001. Senghor said of the Francophonie:

It is this humanism that has spread across the world: this symbiosis of the dormant energies of all the continents, of all the races awakening to their complementary warmth.

The last Games of la Francophonie, which were held in Ottawa in 2001, showed us how marvellous it can be to see people of different origins and cultures united around one ideal, that of belonging to one big family. In these times of uncertainty, it is a fine example of harmony and openness to contemplate. Diversity should not be an obstacle...

• (1410)

In Canada, this day is part of the Quinzaine nationale de la francophonie. For us, this is a time for all Canadians to reflect on our dual heritage, with its two official languages and cultures. This heritage strengthens our ability as a country to forge ties with many other countries, and as peoples, to mingle more easily with the other peoples of the world.

Of course, more remains to be done for this linguistic duality to be effective. The various reports on this subject and the day-to-day reality are there to remind us of this fact. But I am reassured by the interest shown by the various levels of government in Francophone groups throughout Canada; this shows how important it is to strive to preserve our culture and promote national unity.

Honourable senators, on this International Francophonie Day, I invite you to celebrate our cultural heritage and the pride it brings us.

## ROUTINE PROCEEDINGS

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

## ELEVENTH REPORT OF COMMITTEE PRESENTED

**Hon. Jack Austin,** Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Wednesday, March 20, 2002

The Standing Committee on Rules, Procedures and the Rights of Parliament (*formerly entitled the Standing Committee on Privileges, Standing Rules and Orders*) has the honour to present its

## ELEVENTH REPORT

Your Committee, which was authorized by the Senate to examine the structure of Committees of the Senate has, in obedience to its orders of reference of March 15, 2001, and October 18, 2001, proceeded to that inquiry and now presents its report entitled: *Modernizing the Senate Within: Updating the Senate Committee Structure*.

Respectfully submitted,

JACK AUSTIN, P.C.  
Chair

(For text of report, see today's Journals of the Senate, Appendix, p. 1328.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## APPROPRIATION BILL NO. 4, 2001-02

## FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-51, for granting to Her Majesty certain sums of money for the Public Service of Canada, for the financial year ending March 31, 2002.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.



## APPROPRIATION BILL NO. 1, 2002-03

## FIRST READING

**The Hon. the Speaker** informed the Senate that a message had been received from the House of Commons with Bill C-52, for granting to Her Majesty certain sums of money for the Public Service of Canada, for the financial year ending March 31, 2003.

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for second reading two days hence.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

## TIME ALLOCATED TO TRIBUTES—NOTICE OF MOTION TO EXTEND DATE OF FINAL REPORT

**Hon. Jack Austin:** Honourable senators, I give notice that on Tuesday next, March 26, 2002, I will move that notwithstanding the motion adopted by the Senate on December 4, 2001, the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to extend the date for the presentation of its report on the time allocated to tributes in the upper chamber from March 31, 2002 to May 31, 2002.

## QUESTION PERIOD

## NATIONAL SECURITY AND DEFENCE

## REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—GOVERNMENT RESPONSE

**Hon. W. David Angus:** Honourable senators, I rise again on the issue of the report of our colleagues on the Standing Senate Committee on National Security and Defence. I asked the Leader of the Government in the Senate two weeks ago, and again last week, what the government's intentions were with respect to the recommendations of that report, and in particular the recommendation about an inquiry. I ask again: What is the intention of the government? Is there any plan to implement any of the recommendations, and if so, which ones and when?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as I indicated to the honourable senator when he last asked this question, the government has taken this report under active consideration, but no decisions have been made.

## REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

**Hon. W. David Angus:** Honourable senators, I hope you would all agree with me that since the report came out, we have been reading headlines in our national media, almost on a daily basis, about the issue in our ports in particular, but also other elements of the border questions that were studied by the committee. In yesterday's *National Post*, we were informed that six years ago officials from all aspects of law enforcement warned this government that Canada's major ports would become a hotbed of criminal activity if the Ports Canada Police were disbanded. Six years after that advice was ignored, the Senate committee report has identified the ports as a breeding ground for organized crime and terrorism.

Honourable senators, the headline was blatant, "Liberals Ignore Warning." I ask again: What does the government plan to do specifically about this problem of organized crime in our ports?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, it is interesting that the senator would ask about ports police when, indeed, that is not one of the recommendations that has come forward from our Senate committee. They have not recommended that we re-establish the Ports Canada Police. They have indicated that there should be a public inquiry, and that is the issue the government is taking under consideration.

**Senator Angus:** In fairness, that was not responsive to my question. My question is, what will this government do now that it has been pointed out that it was specifically warned six years ago by every law enforcement agency with jurisdiction in this nation, and six years later it was determined by a group of our colleagues seriously studying the matter that indeed organized crime is rampant in our major ports all across the nation? Nothing has been done about it. I think we all deserve an answer. Canadians deserve an answer. What will this government do about the organized crime situation in our ports?

**Senator Carstairs:** Honourable senators, the honourable senator cannot start from one headline and jump to a totally different issue. Well, actually, the honourable senator did just that, but it is not logical. If one wishes to be logical, one must start with a premise and bring it to a conclusion. The honourable senator has taken a premise and come to a totally different conclusion, which is not logic as logic was taught to me.

In terms of the question asked with respect to the actions that the federal government will take, I have given that answer. They are studying the report of the Senate, and they will make decisions with respect to that report in due course.

**Hon. J. Micheal Forrestall:** Honourable senators did not pay much attention to us at the time the port structure was dismantled.

**Senator Angus:** They are too worried about reports that do not contain anything, and they pay \$1 million for them.



## NATIONAL DEFENCE

### REPLACEMENT OF SEA KING HELICOPTERS— WITHDRAWAL OF EUROCOPTER FROM COMPETITION

**Hon. J. Michael Forrestall:** Honourable senators, my question for the Leader of the Government in the Senate flows from the announcement yesterday by Eurocopter of the withdrawal of the Cougar from the Maritime Helicopter Project tendering process.

I quote from the Eurocopter spokesman who is reported to have stated:

My opinion is this process has been too long, and is confused and probably lacks direction. That's certainly not normal that we are coming to a situation where two of the competitors, for perfectly opposite reasons, are unhappy about the process. That should ring some bells.

Can the Leader of the Government in the Senate explain to this chamber why Eurocopter is so upset with the definition process and with the further changes and requirements; and what, if anything, is the government considering with respect to further modifications in the requirements for this helicopter?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, Eurocopter admitted yesterday that it could not meet the basic criteria of the statement of operational requirements. The purpose of the dialogue that has taken place between Public Works and the defence ministry and the industry is so that we can build the best possible helicopter for our troops. That is what we want. If Eurocopter cannot build it, then clearly they have to withdraw from the bidding process.

**Senator Forrestall:** No, it is not clear that they had to withdraw at all, but I have to accept the position of the government leader on that.

Eurocopter is the majority shareholder in the NH-90. They have suggested that unless they receive assurances of favourable consideration from the government with regard to flexibility in the program requirement specifications, they will not compete with the NH-90, not to mention the Cougar. The NH-90 is a modern helicopter, but it is small and a long way from certification. It has less maximum lift than the Cougar and less cabin volume — in other words, a smaller, less appropriate vehicle.

That is why I ask: Will the government release a new basic vehicle requirement specification to accommodate the NH-90 in the Maritime Helicopter Project competition? If so, can the minister give us a categorical assurance that the technical

compliance of the contenders will be evaluated on the basis of real capabilities and not virtual ones?

**Senator Carstairs:** The honourable senator asks an important question based simply on the following: What is our purpose in going through this exercise to come up with the best plane for the military? The purpose is just that — to get the very best plane. That does not mean that we will bow to individual helicopter corporations who think they have the best product. The military in Canada will determine and has determined what it requires. Public Works will then determine how it can acquire what the military has indicated that it needs.

**Senator Forrestall:** Honourable senators, we are now so far from the original requirements suggested by the military that my honourable friend's position is now somewhat academic. We know that the Cougar was not suitable. The minister has just said that. Now we are dealing with the NH-90, which Eurocopter has said they would be pleased to support if the government would further reduce the requirements so as to accommodate the NH-90. In other words, will the military make more changes? This concern is clearly out there.

The government has been checkmated to some degree on this particular question, and I am wondering what will happen. Will we wind up with what we should have done years ago and make a non-competitive award based on certain controls, give the contract to the Westland group for the EH-101 and get this plane into operation? Or will we further downgrade the military requirement to the point where we will have specifications that will allow the NH-90 — smaller, less weight, less endurance, less everything — to be a viable competitor? Of course, under the government's directive, it is the least costly helicopter, not the one with the best value, that will win this contract. What will happen?

**Senator Carstairs:** Honourable senators, as I have said many times and I will repeat today, the statement of operational requirements known as the SOR — as the honourable senator knows well from the Web site that he is on almost daily — comes from the military. It defines a military helicopter that will be among the most capable in the world. Those requirements have been established and they will not change.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### SPONSORSHIP FUNDS

**Hon. David Tkachuk:** Honourable senators, my questions concern \$158 million worth of sponsorship contracts awarded to three Montreal firms known to have close ties to the Liberal Party: Groupe Everest received \$56 million in contracts, and another group, Groupaction Marketing Inc. and Lafleur Communications Marketing, had \$102 million in sponsorship contracts. What are sponsorship funds? Are they like what cigarette companies used to give out, or are they government grants? I find this intriguing.

**Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, the Government of Canada sponsors a great many activities. Sometimes they take the form of artistic activities and sporting activities, and sometimes they are in the form of signage at arenas. We saw some of that at recent competitions that have taken place, which showed the Canada trademark on display in a variety of settings. That is the kind of sponsorship that the federal government provides. It has two purposes. First, it seeks to encourage those activities by providing communities with the monies whereby the activities can take place in a positive way and in a positive venue. Second, it also tells Canadians — there is no apology to be made for this — of the value that the federal government places on sponsorship.

**Senator Tkachuk:** I just want to get this straight: Taxpayers give money to the federal government and then the federal government gives money to these organizations. Departments such as Canadian Heritage or HRDC used to give out this money. Perhaps at times they managed it badly. In the case of HRDC, they did manage it badly and were found out. Do people apply to the agency for the cash that is sitting there, or do they apply to the federal government for the money that is sitting there?

**Senator Carstairs:** Honourable senators, since the agencies are part of the federal government, when one looks at the overall scheme of things, I suppose people apply to the federal government. Yes, in some cases they do apply through individual departments. However, if they want money through the communication branch of government, for which money has been set aside, then they would do it through that ministry.

•(1430)

**Senator Tkachuk:** Honourable senators, I am now somewhat confused. These agencies are independent companies, as far as I know, unless donating money to the Liberal Party makes them part of the government. Obviously, they have to do something for the 12 per cent.

When people want access to this cash to put on a play or have a building sponsored, do they apply to this private company that gives money to the Liberal government for a piece of the action? To whom do they apply to obtain the money?

**Senator Carstairs:** They apply to the Government of Canada.

**Senator Tkachuk:** The Government of Canada then decides that some cultural group, such as a dance group, gets the cash. What does the agency do for its 12 per cent?

**Senator Carstairs:** If the honourable senator is saying that no one should ever use an advertising agency in this country, then I suspect he is prepared to dissolve a rather large industry. Some organizations go through a promotional organization or an advertising agency. They do that because they do not feel equipped to make the request on their own behalf. That is perfectly legitimate in this country.

**Senator Tkachuk:** Honourable senators, I like advertising agencies. I am not saying they should not be hired; they are a big

part of our industry. I have done work for advertising agencies, but I am saying that people actually have to do something for the percentage they receive.

An agency gets 12 or 15 per cent when they perform a media buy, create copy, or something like that, which is fine. They receive the grant after the federal government has done all the paperwork and has made its decision, and the minister had better ensure that the agency does not decide this.

Let us say the government gives a dance group \$100,000. The agency then takes 12 per cent. By my calculation, that leaves only \$88,000 for this dance group. The dance group about which the Liberal government cares so much all of a sudden has \$12,000 less than what it applied for. I want to know what that agency in Montreal does for the \$12,000.

**Senator Carstairs:** The honourable senator says that he is in favour of advertising companies, and he seems to have some understanding of what it is that agencies do within the operation of Canada as a community. I can only assume that the honourable senator is opposed to the ultimate grant to the group, be it a dance, figure skating, art or theatre group. I do not quite understand what the problem is, honourable senators.

**Senator Tkachuk:** Honourable senators, let me be clear. Let us say that the Government of Canada gives \$100,000 to a figure skating club. That is good for the figure skating club, and the Liberal government thinks it is good for them. However, somewhere in between, the agency receives \$12,000 from the federal government. This is my money, your money, honourable senators, and the people's money. As I say, \$12,000 is taken off the total and given to Groupe Everest, Lafleur Communications or Groupaction. I just want to know why these three private firms get to pick up a piece of the cash as it is flowing down to the people who actually asked for and need the money. What do these companies do to deserve it?

**Senator Carstairs:** Honourable senators, quite frankly, it is because they are using the advertising agency to bring it about.

**Senator Tkachuk:** The advertising agency actually gets the money for the group. A group does not go to the federal government; it goes to the advertising agency to get the people's money. Is that what happens?

**Senator Carstairs:** It may happen that way, if that is the choice of the group.

**Senator Tkachuk:** Okay, I have it.

[Translation]

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this House a response to a question raised in the Senate on February 20, 2002, by Senator Forrestall, regarding the use of the Joint Task Force 2.



## NATIONAL DEFENCE

### JOINT TASK FORCE 2—AUTHORIZATION OF COUNTER-TERRORIST OPERATIONS

*(Response to question raised by Hon. J. Michael Forrestall on February 20, 2002)*

Legally that authority rests, as with all Canadian Forces deployments, with the Minister of National Defence. However, the Minister of National Defence will consult with the Prime Minister and at times with some or all of his Cabinet colleagues whenever JTF2 is deployed on an operation, as was the case with the Afghanistan deployment.

The CDS authorizes individual missions for JTF2 in Afghanistan if they fall within the approved Rules of Engagement. If the mission were intended to go beyond the Rules of Engagement the CDS would seek authorization from the Minister, who would then consult with the Prime Minister, in order to amend the Rules of Engagement.

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, I would like us to start with Item No. 5, that is second reading of Bill C-27, before returning to the order set out in the Order Paper.

[English]

### NUCLEAR FUEL WASTE BILL

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Gauthier, seconded by the Honourable Senator Gill, for the second reading of Bill C-27, respecting the long-term management of nuclear fuel waste.

**Hon. Wilbert J. Keon:** Honourable senators, I am pleased to have this opportunity to make a few remarks concerning Bill C-27.

It is important to note at the outset that this bill represents the culmination of scientific research and development and a full environmental assessment of the concept of nuclear fuel waste management.

•(1440)

Honourable senators, it also must be acknowledged that Bill C-27 represents the commitment of the federal government to formalize and implement a comprehensive approach to

support nuclear fuel waste management in this country. Having stated these two issues, I will begin by commending the government for taking a strong leadership position in this complex issue. I am in full support of the need to move forward with legislation as the preferred mechanism for the Government of Canada to fulfil its policy objectives in respect to the policy oversight of a waste management entity. This important piece of legislation will provide us with a sound framework upon which to address the issues of nuclear fuel waste management. I can think of few issues that have passed through this chamber of greater importance to us all.

Having said that, honourable senators, there are four concerns with respect to the current bill that I want to put on record before the bill proceeds to committee. Essentially, my concerns relate to issues that I believe have not been adequately addressed in the bill. The issues relate to the information access mechanism of the bill, the proposed establishment of a waste management organization to be run by the owners of the nuclear fuel waste industry, the lack of clear provisions preventing Canadian owners from bringing waste generated outside Canada back to this country for disposal, and transparency and accountability of the proposed management model.

Regarding information access, as Senator Gauthier aptly stated:

Canadians want to participate directly in the important decisions affecting their lives and those of their children. Local communities near existing reactor sites want to know what will be the fate of the nuclear fuel waste currently located within their boundaries.

Indeed, this is true.

Let me speak to the first issue concerning a lack of access to information and of public support for the bill. As all honourable senators know, the process that has gotten us to where we are today has been a lengthy one. The formal review of this issue dates back to 1989, when the Environmental Assessment and Review Process Guidelines Order established the Nuclear Fuel Waste and Disposal Concept Environmental Assessment Panel, also known as the Seaborn Panel. In March 1998, following nine years of study, the panel submitted its recommendation to the Government of Canada following an exhaustive review that included extensive consultation generating input from 531 registered speakers and 536 written submissions. Following the recommendations of the panel, the Minister of Natural Resources Canada also consulted the stakeholders, including the public, provincial governments, waste owners and other interested parties to identify options for proceeding with the next step on the long-term management of nuclear waste.

One of the key conclusions reached by the Seaborn Panel was that broad public support is necessary to ensure the acceptability of a concept for managing nuclear fuel waste. I believe, as others do, that the current bill falls short on this front.

Many concerns have been voiced about the insufficiency of public consultations and the lack of public participation required by Bill C-27 of the future waste management organization, or WMO.



Clause 12 (7) clearly states:

The waste management organization shall consult the general public, and in particular aboriginal peoples, on each of the proposed approaches. The study must include a summary of the comments received by the waste management organization as a result of those consultations.

Subsequently, the minister may engage in consultations with the general public. This strategy leaves the consultation process too flexible and open to the whim of public officials. A public consultation on such an issue requires transparency and accountability throughout the process.

At the end of the process, the minister recommends to the Governor in Council which approach has been selected for the management of nuclear fuel waste. As clause 15 states: "and the decision of the Governor in Council shall be published in the *Canada Gazette*."

Honourable senators, two elements are of concern here. The selection of the approach should be returned to Parliament for a decision. Again, I mention the concern regarding the limiting of access to crucial information to the public concerned about this issue, including individuals and host site municipalities. As Senator Wilson mentioned in her statement on this question, in practical terms, a very select few are acquainted with the *Canada Gazette*.

Again I ask, how can the public be sufficiently informed in this matter? How can this approach ensure that decisions are widely known by the Canadian public? How can public support be acquired and be an integral part of the decision-making process?

It is my understanding that the waste management organization will not be subject to the federal Access to Information Act, nor to the Auditor General. Indeed, this is a huge gap in the mechanisms facilitating public oversight.

We need to ensure that the public has an opportunity to bring forward any concerns that they might have on this issue. I also believe that the proposed legislation must state precisely how the public will be involved in the review of options to dispose of nuclear waste as part of the framework in both the short-term and long-term.

Honourable senators, let us remember that the September 11 crisis in the United States has put all of us in a different place in time in terms of looking at all issues from the perspective of public security and safety. Things that once seemed impossible have become reality. Today, it is clear that we not only need to rethink the issue of public safety, but we need to rethink how to involve the public in decisions that impact on their safety.

Ensuring that radioactive waste disposal is carried out in a safe, environmentally sound and comprehensive manner may have been perceived as being primarily a concern for government and industry leaders prior to September 11. I would propose that today it is a different issue in that the public needs and wants to provide input on the matter from conception to implementation.

Therefore, I recommend that the government agree to launch an effective public consultation that will review the regulations governing nuclear fuel waste management and disposal in this country. This process does not need to prohibit the passage of Bill C-27. Rather, it can complement it. However, the proposed legislation should be amended to include a clause that allows for the development of a comprehensive public participation program in the ongoing duties of the waste management agency that will be established under the proposed bill.

My second concern relates to the establishment of an independent nuclear fuel waste management agency, the WMO. As proposed in the bill, the primary role of this group would be to propose approaches to the Government of Canada for managing nuclear fuel waste and to implement the approach in accordance with the act. It can be understood, in some respect, that delegating management responsibilities to a private, industry-formed and funded, organization would theoretically be cost efficient because the bill ensures that waste owners will set aside funds to meet financial responsibilities over the long term. My concern is that if they do not set aside funds for whatever reason, what are the mechanisms and safeguards that will reduce the probability that fiscal responsibility for waste management is not passed on to the consumer directly?

As currently stipulated, all nuclear energy corporations would become members of the waste management organization and have the responsibility of interpreting and meeting broad policy objectives set by the federal government. The WMO would become a private entity appointing its own board of directors and its advisory council. This is contrary to the Seaborn Panel recommendations. Indeed, it could be perceived as a "board of foxes" guarding the proverbial chicken coop.

● (1450)

As Grand Chief Coon Come of the Assembly of First Nations stated to the Standing Committee on Aboriginal Affairs, Northern Development and Natural Resources on November 6, 2001:

...we need to have some kind of public body, a public agency...because they're not representing an industry, they're not there to maximize the return on investment, they're not there to represent their shareholders, they're there to represent the public as a whole.

The second issue of concern is that the proposed waste management organization is guided by broad objectives and policies. As Grand Chief Matthew Coon Come further remarked:

The phrase "comprehensive, integrated, and economically sound" can be interpreted in many ways. The phrase is sufficiently broad and general to mean all things to all people, depending on the perspective one brings to the issue.

This leads to further misinformation and misinterpretation, and could potentially aggravate the current mistrust of the industry. It is difficult to envision an industry-based waste management organization that would have the ability to examine broad-based issues, thus engendering public trust and collaboration.

I support the need to do what must be done to guarantee the agency's independence from vested interests and to avoid the potential for mistrust and confrontation, not just from informed citizens but also from the government and industry players themselves.

Therefore, I would support the need for an amendment to the bill, to allow for the establishment of an independent commission to handle the long-term management of spent nuclear fuel, rather than the current model proposed in the bill that allows for an industry-led corporation to oversee its own waste management organization. There may be merit in having government representation at the table, given that some have criticized the government as shirking its responsibility on this issue.

Let me turn to the disposal of waste outside Canada. There is a lack of clarity in the current bill concerning the stipulation prohibiting foreign waste from being disposed of in Canada. Nothing in the proposed legislation prevents Canadian nuclear power companies from establishing plants in the United States or elsewhere and producing nuclear fuel waste to be brought back to Canada for disposal. This is a serious shortcoming that the committee must address.

In particular, I believe an amendment is needed to qualify that the definition of "nuclear fuel waste" refers only to that originating in Canada. The section defining "purpose of the act" must clarify that the bill is exclusively concerned with management of domestic nuclear fuel waste, not nuclear fuel waste from other countries. There must be an explicit statement in the proposed legislation prohibiting the import of waste into Canada for disposal.

Honourable senators, these are not new issues. They have been raised by others and were reviewed — but rejected — when the bill went through the House of Commons approximately one year ago.

Bill C-27 does provide for policy oversight, ensuring that the waste management agency meets its policy objectives. However, the bill sets out little in terms of direct public oversight to provide assurance that the activities of the agency do not have implications that run counter to the principles of distributive justice — that is, business interest versus the good of the public.

It is conceivable that the WMO could implement policy in a way that may unjustly burden citizens. For example, the basic concern of mayors of communities currently hosting nuclear facilities is that waste management decisions made without their involvement could unjustly affect the social well-being of the host communities. Hosting a nuclear facility involves the costs of developing and having in place an emergency plan, maintaining a well-trained emergency response team, an emergency measures office, appropriately informing the public, as well as costs associated with the devaluation of property and the subsequent decreases in revenue from taxes.

The proposed WMO should act in the public interest and be accountable to the public. It needs to take into serious consideration that, as a public service provider, an organization is

responsible for the its customers, particularly when the well-being of present and future citizens is concerned.

Honourable senators, much concern has been expressed in relation to Bill C-27's lack of transparency and accountability to the Canadian public. Mechanisms must be in place to ensure that public oversight at all levels is required.

Finally, honourable senators, the legislation fails to address another important issue — that is, a debate about a timetable for disposal of nuclear waste from given sites to others, which might be a reasonable alternative. The Mayor of Pickering said the following:

For as long as 40 years the municipalities —

— of Clarington and Kincardine and the City of Pickering —

— have served as so-called interim storage sites. With the legislation currently before us, there's every likelihood we would continue to serve as stop-gap storage sites for decades more. In effect, we would become the de facto permanent storage sites for nuclear waste without adequate scrutiny, consideration, or preparation for what that means in the longer term.

A critical path and timetable are needed to ease of burden of responsibility in such communities.

Honourable senators, I look forward to a full discussion of this bill in committee and the emergence of an improved bill.

**Hon. Douglas Roche:** Honourable senators, I have deep concerns about this bill, and I wish to register my objections at the second reading debate.

There are extreme dangers inherent in nuclear waste materials, which necessitate a process that will ensure the safety of Canadians in the disposal process and ensure that we meet the social conditions surrounding this subject.

After lengthy examination, the Seaborn panel came to two conclusions, which I quote:

From a technical perspective, safety of the AECL concept has been on balance adequately demonstrated for a conceptual stage of development, but from a social perspective, it has not.

As it stands, the AECL concept for deep geological disposal has not been demonstrated to have broad public support. The concept in its current form does not have the required level of acceptability to be adopted as Canada's approach for managing nuclear fuel waste.

Let us compare what the Seaborn panel advised the Canadian government to do, as opposed to what the government actually did. The heart of the bill concerns setting up the waste management organization. Clause 6(1) states:

The nuclear energy corporations shall establish a corporation, in this Act referred to as the waste management organization...



Who are the nuclear energy corporations?

• 15 •

Bill C-27 identifies them as Ontario Power Generation Inc., Hydro-Quebec, New Brunswick Power Corporation, any successor of these corporations and the Atomic Energy of Canada Limited. In other words, the very manufacturers are now to be the custodians of the waste management process. What did Seaborn say on this central element? Seaborn said that a nuclear fuel waste management association, which is now called a waste management organization, should be established at arm's length from the utilities and the AECL, with the sole purpose of managing and coordinating the full range of activities relating to the long-range management of nuclear fuel waste.

Why did Seaborn argue that the new organization should be at arm's length from the producers of the nuclear materials in the first place? Let me give you one paragraph from the lengthy report, which I commend to all honourable senators. Seaborn stated:

For various reasons, there is in many quarters an apprehension about nuclear power that bedevils the activities and proposals of the nuclear industry. If there is to be any confidence in a system for the long-term management of nuclear fuel wastes, a fresh start must be made in the form of a new agency. The agency must be at arm's lengths from the producers and current owners of the wastes. Its overall commitment must be to safety.

Seaborn cited as an authority for that very important conclusion that they came to the Joint Committee of the Canadian Academy of Engineering and The Royal Society of Canada. Honourable senators cannot find a much higher authority than that on this subject. They said:

The Joint Committee is concerned that this body have high public credibility and considers that this requires detachment from the organizations which have been closely associated with the generation and handling of nuclear fuel waste.

Who will be on the board of the waste management organization as set out by Bill C-27? I will tell honourable senators who will be on that board — every nuclear energy corporation. The bill states:

6.(2) ...every nuclear energy corporation shall become and remain a member or shareholder of it.

What did Seaborn say about who should be on the board? He said: "The board of directors appointed by the federal government should be representative of key stakeholders." They should be people who have a legitimate interest in the subject and who go far beyond the narrowness of those who actually produce the material — all the people who will be affected in one way or another.

It will be pointed out to me by the proponents of Bill C-27, "What am I worried about? It has an advisory council that will be

comprised of various people." I am worried because the advisory council will have no legislative or no determinative function whatsoever. Moreover, the advisory council determines who will be on the advisory council. They say that the members of the council should have a broad range of scientific and technical disciplines "as needed in other social sciences."

Honourable senators, Seaborn said clearly that the representatives of social sciences have an integral role to play, especially with respect to the consideration of the Aboriginal peoples whose land this will affect when we go to the Laurentian Shield. Seaborn quoted a concern, and I can express my argument most succinctly by quoting what he said while he quoted from the Assembly of Manitoba Chiefs, the Assembly of First Nations of Quebec and Labrador and the Grand Council of the Crees, who said:

...we recommend that the proponent be required to undertake a meaningful process of consultation with representative First Nations communities and umbrella organizations regarding this concept in the Canadian Shield. Such consultation should be funded by AECL but undertaken by First Nations people themselves according to their own methodologies with their own experts, and according to their own concerns, values and priorities.

Honourable senators, this is not being done. Seaborn called for extensive consultations and an advisory council, representative of a wide variety of interested parties. This has not been done in Bill C-27.

There are other points to which I would like to object, but I promised the deputy leader that I would make a short intervention. The core of my objection is that the centrepiece of Seaborn's recommendation — that it be an independent arm's length body — has not only not been followed, but the government has done the reverse. That is the centre of the principle of this bill. Thus, if this bill is to go to committee this afternoon, I should like the record to reflect that it was passed on division so that my objection, which would be a negative vote on second reading, would be so recorded.

**The Hon. the Speaker:** Honourable senators, is it your pleasure to adopt the motion?

**Some Hon. Senators:** Yes.

**Senator Roche:** On division.

Motion agreed to and bill read second time, on division..

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill referred to the Standing Senate Committee on Energy, the Environment and Natural Resources.



## YUKON BILL

## THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Nick G. Sibbeston:** Honourable senators, I am pleased to say a few words about Bill C-39. This is an important and interesting bill that deals with the Yukon, a part of Canada that, like the Northwest Territories, has struggled and continues to struggle for responsible government. This bill advances that cause considerably.

At the same time, there are unresolved issues of Aboriginal rights among some Yukon First Nations. While some have settled land claims and self-government agreements, others continue to struggle to conclude these important negotiations. We heard from two of these groups — the Kaska Nation and the Carcross/Tagish First Nation. They asked us to delay the passage of Bill C-39 until their claims were satisfactorily dealt with.

Honourable senators, there are two forces at work: On the one hand, there is a territory that, by this proposed legislation, will obtain control of the vast lands of the Yukon and will control its non-renewable resources; and on the other hand, there are numerous Aboriginal peoples who are still seeking ownership of and control over their ancestral lands. Through this bill, the Yukon government will achieve its objectives, while the Aboriginal people — the first peoples of Yukon — will not. It is not surprising that some have referred to this bill as Yukon's land settlement, rather than their own land settlement.

Honourable senators, it is a good time to remind the federal government of its constitutional responsibilities to deal fairly and expeditiously with Yukon First Nations. They were promised under the 1870 Rupert's Land Order, when vast tracts of northern lands — Rupert's Land and Northwest Territories' land — were transferred to Canada:

...that upon transference of the territories in question to the Canadian government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with equitable principles which have been uniformly governed by the British Crown in its dealings with the aborigines. Yukon first nations cite these orders as central to the federal government's responsibility in dealing fairly with them.

At the same time, there is a movement in the northern parts of our country — the Yukon, Northwest Territories, and Nunavut more recently — towards responsible government and eventually self-determination to the point where they each will become a province.

Honourable senators, there does not have to be conflict between the struggle for responsible government and the first nations' quest for settlement of their land claims. These two movements can occur at the same time. My experience, as premier of the Northwest Territories in the 1980s, shows that devolution of powers and the development of responsible government are a good thing. We found that when we took over programs and responsibilities, we were able to deliver and do a much better job than officials who lived far away from the people they were serving.

I am concerned that some land claims in the Yukon have not been settled. There is a federal mandate, apparently, which may expire at the end of March. I hope that the federal government will re-examine and extend their mandate so that these claims can be settled in the next year or so. I urge the Yukon government, once they have these additional powers, to be generous and open because they will be sitting at the table with the federal government and first nations. The Yukon government now has the responsibility to contribute as much as possible to the resolution of these claims.

Honourable senators, I take some comfort in the fact that the transfer agreement, a precursor to this act signed in 1998, calls for the transfer to occur by April 2003. That leaves a year in which the Yukon claims can be settled if it is to be done in advance of devolution taking place.

I am satisfied that there are provisions for the federal government to take back the administration and control of public lands for the purposes of settling land claims with the Yukon First Nations.

Honourable senators, as a show of good faith, I am prepared to support the bill. However, I intend to monitor the progress of the Yukon land claims negotiations. By passing this bill, we are honouring the promise of responsible government to Yukoners. At the same time, it is incumbent upon us to insist that the federal government does all it can to keep its promise of dealing fairly with the first nations of the Yukon.

I wish the people of the Yukon well.

On motion of Senator Watt, debate adjourned.

[Translation]

## LEGISLATIVE INSTRUMENTS RE-ENACTMENT BILL

## SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Joyal, P.C., seconded by the Honourable Senator Corbin, for the second reading of Bill S-41, to re-enact legislative instruments enacted in only one official language.

**Hon. Jean-Claude Rivest:** Honourable senators, Bill S-41 may seem particularly technical and insignificant to many of you. In actual fact, it could have an enormous impact on the entire Canadian legal system, given the difficulty underlying the drafting of this bill.

We know that, under the constitutional provisions of section 133 of the 1867 Constitution, the Parliament of Canada and the Quebec Legislative Assembly were given by the Fathers of Confederation a very specific responsibility as far as the French and English languages are concerned. The Parliament of Canada and the Legislative Assembly of Quebec have the constitutional duty and responsibility to enact and publish all legislation, orders and regulations arising out of their legislative prerogatives in both official languages. This affects all procedures and proceedings of these two important institutions.

Now, honourable senators, following on the Supreme Court of Canada's judgment in *Blaikie*, which addressed certain provisions of Quebec's *Charte de la langue française*, it appears that the federal government had, since 1867, the practice of enacting its regulations and orders in English only. It apparently then had them all translated and published in both of Canada's official languages, in compliance with section 133. What is somewhat surprising about the initiative taken by the Leader of the Government in the Senate, on behalf of the Minister of Justice, is that the Canadian government appears to have been aware of this legal difficulty with the legislation enactment process for more than 20 years.

I imagine that this doubt must have existed since the comment made by the Supreme Court of Canada, in 1977, if I am not mistaken. This doubt was so serious that, 20 years later, the Canadian government decided to do something. It is very easy to measure the legal consequences that such a quagmire could have had in the past 20 years, if the Government of Canada had done nothing. For example, any lawyer who wants to challenge regulations or an order issued by the Governor General of Canada could argue that the regulatory provisions were not adopted in both official languages, even though they might have been published in both languages. This could invalidate the regulatory provisions in every area because this has been done in a consistent manner. Even though, at first glance, this bill seems to be rather innocuous, it deals with an extremely serious problem that could create real chaos in Canada's legal framework.

Honourable senators, the first definitive version of the Quebec government's *Charte de la langue française*, Bill 101, included a provision to the effect that Quebec laws would only be passed in French. Camille Laurin, the minister responsible for this important Quebec language legislation, was well aware of the situation. This was a rather curious political move.

• 1520

This was confirmed in a recent biography: Dr. Laurin knew that this section violated the provisions of section 133. He went ahead anyway. He thought he could score political points with this. He claimed that the Supreme Court was preventing Quebec from legislating freely. He knew exactly what he was doing when he included this provision. It was invalidated by the Supreme Court in the *Blaikie* case. That is when the issue was raised in relation to the federal legislation.

This bill is important. We are rather surprised that the government has introduced it in the Senate. We do not have the list of the regulations that were improperly made because

section 133 was not complied with. This section requires the Canadian government to adopt its laws and regulations in both official languages, not only to publish them in both official languages and have them translated. We do not have that list. We assume that it is very long. The Standing Senate Committee on Legal and Constitutional Affairs will surely ask questions regarding the existence of that list, when officials from the Department of Justice are summoned. We do not know for sure, but we can imagine that this may be very important.

The second question will undoubtedly deal with the 20 years it took for the government to decide to act, when it could have caused an immense legal quagmire.

These are the essential provisions of the bill. It is retroactive. Some may worry about the legal value of the approach taken by the government. Of course, it fulfills our constitutional obligations. The latter must be met within the framework of the constitution. If this type of problem arises, it has to be remedied in a manner that is constitutional. So, we have this bill, which is retroactive. It states that anything that might have been done wrongly is now acceptable. It is a pragmatic approach. It would be an extremely lengthy process to correct everything in our parliamentary system.

There are many uncertainties. We do not know the nature of the problem we are dealing with. There is no doubt that this is a practical solution to a problem. Once again, this bill may not make newspaper headlines, but it is a serious issue in the context of Canada's Parliament legislating in a manner that satisfies our constitutional requirements.

Honourable senators, we all recall the consequences of the *Forest* ruling on the Government of Manitoba and its statutes. Corrections had to be made in an urgent manner.

Honourable senators, we all recognize the eminent value of the principle of linguistic duality. This duality is entrenched in the Official Languages Act and the Constitution of Canada. It involves certain provisions regarding the Parliament of Canada and the Legislative Assembly of Quebec.

There are also other extremely important language rights. From a constitutional perspective, it is imperative that the protection of Canada's linguistic duality receive a constitutional legal basis. Otherwise, governments might fail to apply these provisions, even though they are acting in good faith. This does not only apply to the legislative process, but also to education.

Minority groups in Canada have had to take their cases to the Supreme Court of Canada to have these constitutional provisions applied. In the Ottawa area, in the case of Montfort Hospital, French language minority groups had to go to courts to ensure that their fundamental constitutional rights were respected.

There is still work to be done in Canada to ensure that linguistic duality is not merely about providing services in the official language requested. We should also ensure that our constitutional legislation on duality protects not just individuals but minority language communities as well. I am thinking of sectors such as education, health, and social services, on which our minority language communities in Canada, be they English- or French-speaking, depend for survival.



This bill deserves to be studied in the Standing Committee on Legal and Constitutional Affairs. It contains some important technical features, which may turn out to be highly significant. We will examine them and report to this Chamber.

**The Hon. the Speaker:** Honourable senators, Senator Joyal, seconded by Senator Corbin, moved that this bill be read the second time. Is it your pleasure to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Joyal, bill referred to the Standing Committee on Legal and Constitutional Affairs.

[English]

## BUDGET IMPLEMENTATION BILL, 2001

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Taylor, for the second reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in rising to speak on Bill C-49, I should like to underscore two matters. The first is the proposal to set in place an airline security fee; the second is the Canada Fund for Africa. I should like to begin with the latter, namely, the Africa fund.

As was mentioned earlier in this debate, some of us find great merit in the proposal to make available a dedicated fund of some \$500 million to support development in Africa. However, it is important to have adequate machinery in place to ensure that these funds will reach the people who are most in need in Africa. We would like to see a sound program evaluation system attached to the mechanism, such that we would be able to monitor where the funds go and whether they are being used effectively and efficiently. There is just too much in past experience to indicate that funds that are made available from the developed world to the underdeveloped world, to the Third World, end up in the hands of the dictators or the rich and the powerful and are never seen by those most in need.

• 1530

I believe that it is the intent of the government, as it is the intent of the people of Canada, that our development funds reach the people who are most in need. I also believe that this is the same principle that underlies the Prime Minister's own view, which he expressed only a few days ago. It is a view shared by other governments that are part of the G8.

[ Senator Rivest ]

Last week, His Honour and colleagues visited the Senate and senators of the Republic of Italy, at which time we held a discussion on this very topic. The President of Italy and the Speaker of the Italian Senate underscored the same concern. We have abroad in Canada a consensus that has been expressed by the Prime Minister. Other developed countries that are making development aid available to that theatre of the world are now looking to ensure that these development funds reach the people who are most in need.

Honourable senators, perhaps we should address things in a more systematic way. Perhaps we should choose an area like health care, for example, and focus on it as the Canadian contribution area.

One part of the bill that caught my attention and which raises some question is found on page 109 of the bill. I hope that the committee will look at this. Part 5 deals with the Canada Fund for Africa, and subclause 3(2) describes the eligible activities for which the Canada Fund for Africa could be applied. In the English version, the subclause states that an eligible activity is an activity that would be directed at objectives set out, *inter alia*:

...for support in the Africa Action Plan called for by the Group of Eight industrialized countries in Genoa in July of 2001 and that are adopted by the Group of Eight at its summit scheduled at Kananaskis in June of this year.

The French version of that subclause is clearly written in the future tense:

...qui seront adoptés par le Groupe des huit au sommet...

The logic of it is that this part of the bill anticipates a decision that could take place in June. What happens, however, if that decision is not taken? Perhaps we need an explanation. The committee should delve into the timeline for application of that part of the bill.

Honourable senators, let me turn to the other concern that has been canvassed by colleagues earlier in this debate, namely, the airport security charge.

**Senator Bolduc:** Tax!

**Senator Kinsella:** I hear the term "tax." That, I believe, is what it is, although the bill itself uses the term "charge."

**Senator Robichaud:** It is a levy.

**Senator Kinsella:** I was going to make a compromise and call it an "airline security fee."

**Senator Lynch-Staunton:** It is a tax.

**Senator Robichaud:** It is a levy.

**Senator Kinsella:** Whatever it is called, whilst I am supportive of the Africa fund, I am not supportive of the air security fee/tax/charge/levy. If, at this stage, we are debating the principle of the bill, what is the principle of the bill? Is the principle of the bill to establish the Africa fund and other tax measures, or is it a transportation safety issue? Perhaps the bill is totally out of order —



**Senator Robichaud:** No, no!

**Senator Kinsella:** — and should be withdrawn or examined by His Honour. Perhaps that is something we should keep in the back of our minds as we carefully analyze the bill.

**Senator Robichaud:** Yes, way back!

**Senator Kinsella:** My concern about the air security fee/tax/charge/levy is that on the economic side, as I try to understand the logic of the government, the government seems to be saying, "Look, it is only \$24 charged to those who use the system." A family of four or five travelling on their savings for a vacation or to see distant family members would disagree that it is "only \$24."

The government plans to deposit the monies collected from the airline security fee into the General Revenue Fund. The fee is not related to the cost of security. We have no documentation or studies that support a \$24 fee. What happens if the real cost of airline security turns out to be \$20 per passenger or \$10 per passenger? Who gets the refund? No one, because the way the fee is structured, it is nothing but a tax grab.

Beyond economics, the consequences of this fee are far more reaching than one might initially suspect. Since the security of air travel first became an issue in the 1970s, it has been understood that security, like aircraft maintenance, is an essential component of our national transportation system. It is a transportation issue. It is in the public's best interest for an airplane to take off at one airport and land at its scheduled destination without any forced interruptions. Surely, the tragic loss of some 3,000 human lives in New York's World Trade Center, including 24 Canadians, and another 200 lives at the Pentagon shows this.

Honourable senators, I happen to live in Fredericton, New Brunswick, along the flight path of departing and landing aircraft for the Fredericton airport, so I, as well as my neighbours, know full well the benefit of planes reaching their scheduled destination.

Think about it, honourable senators. For years, the lines between private and public interest have been blurred. Many airports have established fees for runways and terminal improvements, often at the government's behest, but these are private interests. Only those who travel will utilize them. With the transfer to local airport authorities, I can understand the logic of the decision taken by them to improve their facilities, paying for it in part by levying a fee for those who use the airport facility. These are private interests, in a sense, and only those who travel utilize them. I see those fees as justifiable fees.

However, a public interest such as security is there for everyone, regardless of who uses it. Those who may not be flying at all may have aircraft flying over their heads as they walk down the street. There is a safety issue that goes beyond those who are getting on the airplane that happens to be flying overhead at any point in time.

I repeat: A public interest such as security is there for everyone, regardless of who uses it. Is health care only for the sick? Are highways only for those with cars? Will we toll all federal highways to pay for their policing? Will we charge small businesses a fee when the RCMP Commercial Crimes Division investigates the latest scam on their behalf? Will our National Defence Headquarters charge municipalities for disaster relief? Will we make the United Nations pay the full cost of our participation in peacekeeping operations, allowing the organization to subsidize our national defence as if we were a Third World country?

If the government is prepared to do this with such an important component of national security, how long will it take for the logic or the mindset, this "group think," to begin to permeate our social security system? Why should Canadians pay through income tax to fund a health care system they may only use once or twice a year or a university that they may never enter? The answer is that everyone in our society benefits from all such services. The tragic example on everyone's mind is the benefit that all those victims on the ground in New York would have derived had airport security been better.

● (1540)

Honourable senators, we all benefit from airline security. While the traveller reaches his or her destination and comes home safely, non-travellers do not have to raise their eyes to the sky in fear every time a plane flies over; the airline does not have to spend millions to replace aircraft; and insurance companies do not have to pay out millions or billions in loss, injury and damage claims. The proposal in that part of Bill C-49 is that the traveller should exclusively have to pay to use these new measures, and it takes an approach that I believe is inappropriate. The issue is not simply security for the person who gets on an aircraft. Airline security affects everyone. The example I give is of people walking the street with airplanes flying overhead. There is something fundamentally wrong with the principle upon which this airline use or safety tax or fee or charge is being applied.

In addition to what I think is a faulty policy principle is the practicality consideration and the immense cost. There are other ways to achieve the capital expenditures that the planners have envisaged for new safety screening equipment, et cetera, which will cost some \$350 million in both the first and second years. At present, there is a front-end load in terms of the capital expenditures. The way in which that can be dealt with is to use the fundamental principle that we use when we are buying a house or any other major capital expenditure item, and that is to amortize the item over the normal life expectancy of the given asset. The capital cost of all this new safety equipment could be spread over the expected life of that equipment. We would therefore not be faced with a fee of \$24 per ticket, which as I understand it is based on the expenditure of some \$340 million or \$350 million in the first two years of this program to buy this equipment. If that cost were to be amortized over a long period of time, the fee would probably be down to \$3 or \$4 rather than \$24.

There are fundamental problems of principle with the way in which this tax has been conceptualized and put together. There is something wrong with the mechanics of it. I would hope that in committee, if we will not do it here in the chamber — I do not see great enthusiasm on the other side to challenge the principle because we are dealing with apples and oranges here — the bill could be split or that part which is particularly offensive could be cut away so that honourable senators could be supportive of some parts of the bill they deem to have great merit.

**The Hon. the Speaker:** Honourable senators, it was moved by the Honourable Senator Cools, seconded by the Honourable Senator Taylor, that this bill be read the second time.

Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

#### REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Cools, bill referred to the Standing Senate Committee on National Finance.

#### THE ESTIMATES, 2001-02

##### REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B)—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report (final) of the Standing Senate Committee on National Finance

(*Supplementary Estimates (B) 2001-02*), presented in the Senate on March 14, 2002.

**Hon. Anne C. Cools,** for Senator Murray, moved the adoption of the report.

She said: Honourable senators, it is my understanding that Senator Lynch-Staunton wishes to speak to this motion. Perhaps he could rise to take the adjournment.

On motion of Senator Lynch-Staunton, debate adjourned.

[*Translation*]

#### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, today is Wednesday, a day on which committees sit at 3:30 p.m. With leave of the Senate, I move that the Senate do now adjourn and that all items on the Order Paper that have not been reached stand in their place.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Thursday, March 21, 2002, at 1:30 p.m.

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CANADA

# Debates of the Senate

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OFFICIAL REPORT  
(HANSARD)

Thursday, March 21, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

## OFFICIAL REPORT

### CORRECTION

**Hon. John Buchanan:** Honourable senators, I would ask your consent to correct a mistake that I made on Tuesday, March 19 at page 2465 of the *Debates of the Senate*. I rarely make mistakes, but when I do, I want to correct them as quickly as possible.

I indicated that the highest tides in the world were in the Bay of Fundy at Nova Scotia. I was wrong. Senator Corbin was correct. We share the highest tides between Nova Scotia and New Brunswick.

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## THE SENATE

Thursday, March 21, 2002

The Senate met at 1:30 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

##### **Hon. Sharon Carstairs (Leader of the Government):**

Honourable senators, I rise to share some observations on the significance of today, the International Day for the Elimination of Racial Discrimination.

Two years ago, Canada welcomed 227,000 immigrants and we are raising our immigration levels each year to be commensurate with our increasing population. We are a country that depends upon open borders and an open society. We are proud of our reputation as a nation that respects human dignity and protects the rights of the individual. However, we are not always as free from prejudice and divisive behaviour as we would like to be.

[Translation]

There are many examples, too numerous to list here, of outpourings of humanitarian generosity by Canadians, right from this country's earliest days. Among recent examples are our readiness to assist the Kosovo refugees and the many air travellers stranded in this country by the tragic events of September 11.

[English]

In light of current events around the world on September 11 and the following months, we must be especially vigilant to not prejudice others based upon their cultural, religious or ethnic background. In 1901, when our census level listed 96 per cent of Canadians as "White," we were not as sensitive to questions about skin colour or ethnicity. The remaining 4 per cent of the population was classified as "Red," "Black" and "Yellow."

Today, we are more conscious of racism in term Caucasian versus non-Caucasian groups. Historically, distinctions have been drawn even within similar groups. The Saxon, Celtic, Norman, Irish, Welsh, Scottish and English communities experienced long-standing racial strife, much to the detriment of everyone affected by these hypothetical and easily shifting fault lines.

We can draw imaginary boundaries and borders wherever we choose, but we should remember that our strength as a country was most evident when we pulled together.

Honourable senators, on the ceiling of the Senate foyer outside this chamber, we see symbols of the different nations that first founded this great country. Many others have arrived in Canada since then; we rejoice in all. Our ancestors worked together to build this nation. We should never fail to remember that the collaboration and tolerance that has made our past great will also ensure all Canadians a promising and prosperous future.

Honourable senators, there was an article in today's *Winnipeg Free Press* that helps us to realize that sometimes our children have warmer hearts and better understandings than many of us. The teacher of a grade 4 class read a book about a Black girl ostracized by her new neighbourhood. All the students said, "That could never happen here." She then read them that recent article from the paper, which talked about a family in their neighbourhood whose garage and car had been spray-painted with swastikas and the word "niggers." The young children decided they were going to react, and they did so. They sat down and wrote comforting letters to the family of five. They brought in gifts, including baking, and a Home Depot gift certificate to buy paint and flowers. Since they did not know who the family was, they sent these items to the *Winnipeg Free Press* so that those at the paper could deliver them.

Oh, what we have yet to learn from children!

##### **Hon. Noël A. Kinsella (Deputy Leader of the Opposition):**

Honourable senators, we on these benches wish to join with the Leader of the Government in the Senate to underscore the importance of March 21 as the International Day for the Elimination of Racial Discrimination. In doing so, we draw the attention of all honourable senators to the fact that the massacre that occurred in Sharpeville, South Africa, on March 21 many years ago, is the event that caused the United Nations to choose this day as a day of recognition. That massacre was perpetrated very much because of racism and was an act of terrorism. There is, indeed, a direct relationship between terrorism and racism.

• (1340)

Honourable senators, this year in particular, as indicated by my honourable friend opposite, we should take special note of this observance to remind ourselves that, in our ongoing efforts to prosecute the war on terrorism abroad, we must also still fight the terror of racial discrimination here at home.

In these days after the September 11 attacks, some municipalities, including Ottawa, recorded increases in crimes, particularly harassment and vandalism, against those who appeared to be Muslim. However, across Canada, happily, other communities have taken the opportunity to engage their Muslim neighbours in dialogue. Neighbourhood mosques opened their doors to the community to explain their faith tradition to their neighbours.



Honourable senators, had it not been for Canada's long-standing efforts to fight racial discrimination, the post-September 11 backlash against Muslim Canadians, along with Indo and Sikh Canadians, would have been much more severe, I believe. However, we must also take this occasion to redouble our efforts against racial discrimination. Discrimination has moved from the storefront to cyberspace. In the year since the Oklahoma City bombing, hate sites have proliferated on the World Wide Web. One organization, the National Alliance, used the Web for its subsidiary, Resistant Records, to mark Martin Luther King Jr. Day by launching a video game entitled "Ethnic Cleansing." The goal of that game, hideously, is to kill all non-whites and Jews. This new virtual hatred seeks to attract our youth and create a new generation of hate that will continue practices now deemed repugnant by all but a few. We need to develop software that will filter the hate in cyberspace and keep it from the impressionable young.

As honourable senators in this house and as Canadians, we must use the occasion of the International Day for the Elimination of Racial Discrimination not only to reaffirm our commitment to eliminate racial discrimination but also to commit to eliminating the causes of racial discrimination. Parliament must engage the public and the business community not only on the negative effects of discrimination but also on the positive effects of non-discrimination. Too often, we exclusively discuss consequences of discrimination. This has the effect of causing businesses and individuals to weigh the cost of the consequences of maintaining negative behaviour instead of estimating the benefits of good behaviour.

We have made great strides, honourable senators, in our efforts to eliminate racial discrimination, but there is still much to be done. Let us take the occasion of the International Day for the Elimination of Racial Discrimination to reaffirm our commitment and redouble our efforts to eliminate the factiousness of racial discrimination.

**Hon. Senators:** Hear, hear!

**Hon. A. Raynell Andreychuk:** Honourable senators, since 1966, the United Nations has recognized March 21 as the International Day for the Elimination of Racial Discrimination. That the need still exists for such a day 36 years later speaks volumes as to the inherent difficulty of the task.

Since 1989, the Department of Canadian Heritage has had an annual March 21 campaign to mark the observance of the International Day for the Elimination of Racial Discrimination. This campaign targets primary and secondary students and their teachers. The focus is on the harmful effects of racial discrimination.

The United Nations and music television are joining forces to help young people find ways to combat racism and to promote tolerance in their lives. At a special event being held at the United Nations Headquarters in New York today, teenagers will participate in an anti-discrimination forum to discuss how they

intend to fight intolerance in their communities and to view innovative, anti-bias television programming. A presentation on how to guard against Internet hate sites will also be included in the program.

The United Nations "Your Rights" campaign will focus on empowering young people to recognize and fight discrimination within their communities and within themselves. Through partnerships with several renowned civil rights and other non-profit organizations, the campaign addresses some of the most prevalent types of discrimination in our communities today, including those based on race, religion, ethnicity, gender, sexual orientation, and physical and mental ability. These efforts to inform and educate young people are to be applauded, although more needs to be done. The message must be expanded to a broader audience — one that includes university students, business leaders and the general populace.

Investigating, adjudicating and punishing cases of racial discrimination may appear to be effective, but this is only a limited, reactive approach to specific acts. Should not the goal be to eliminate acts of racial discrimination by rendering discrimination both unpalatable and unprofitable? On this, the International Day for the Elimination of Racial Discrimination, we should reaffirm our commitment to forging a society where such an observance is no longer necessary.

We must encourage our youth to choose not to discriminate for their own sake. We must also encourage our professionals to choose not to discriminate for our society's sake. It is Canada's responsibility to adhere to the United Nations Declaration of Human Rights. By doing so, I believe that we can teach future generations that there is a place for all on this planet.

[Translation]

#### **THE HONOURABLE GERALD J. COMEAU THE HONOURABLE ROSE-MARIE LOSIER-COOL**

CONGRATULATIONS ON RECEIVING L'ORDRE DE LA PLÉIADE

**Hon. Lise Bacon:** Honourable senators, at the risk of embarrassing Senators Comeau and Losier-Cool, I would like to extend my congratulations, if I may, to both honourable senators on their being awarded l'Ordre de la Pléiade by the Canadian section of the Assemblée parlementaire de la Francophonie.

The Honourable Gerald J. Comeau was an M.P. before becoming a senator, and devotes his time and energies to promoting the development of French language minority communities.

The Speaker *pro tempore* of the Senate, the Honourable Rose-Marie Losier-Cool, plays a very active role on a number of boards of directors and committees concerned with issues relating to language, culture and education, on both the national and international levels.

As we know, the Pléiade is a honour awarded by the APF relating to the Francophonie and cultural dialogue. It is given in recognition of the great merit shown by prominent personalities who have distinguished themselves in serving the ideals of the APF.

On behalf of all honourable senators, I congratulate both my colleagues.

### WORLD POETRY DAY

**Hon. Viola Léger:** Honourable senators, today, March 21, is also World Poetry Day. That UNESCO felt the need to declare a World Poetry Day shows its concern with preserving the soul of peoples.

When the written word succeeds in establishing a vital connection between human beings, nature, races, colours and life, it bestows on us the essential, which is handed down through the ages. Poetry is as old as the world; poetry is freedom in its pure state.

I would now like to take part in this day by reading to you two poems, one by Ronald Després, and the other by Zachary Richard.

Ronald Després  
*The Children of the Poor*

Tonight  
We ate mist  
And it left us with beards like little goats  
Which had stuck their chins  
In shaving cream.

Afterwards  
We gathered up our hands from our dresser drawers  
And stuck them onto the ends of long arms thin  
As tattered screens.

We would like to know other games  
Hear stories  
Own a looking-glass  
So that we could scare ourselves  
Or make fun of one another  
Or step through it  
When we are tired  
Of daily existence.

We would like to travel  
To see vistas different  
From those on our dingy walls.

But how are we to travel  
When we do not have bags full of money  
Or toys we could tell  
What we thought of our travels  
And where we would be stopping next?

And what of it!  
What would be the use?  
Where would we go?

Our empire is as shapeless as water.

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[English]

### *No French. No More*

My Papa was a hard-working man.  
Held a plow inside a calloused hand.  
Up before the sun out on the land;  
Try to give us everything he can.

He sent us off to school when a teacher came.  
Said "My-boy, try hard, do the best you can."  
But the teacher we could not understand.  
Because she only talk "American".

My Papa couldn't tell us and it didn't make no sense.  
When the teacher told us that we couldn't talk no  
French no more.

Things were changing fast in Louisianne.  
Cajun can't talk English feel ashamed.  
But nowadays it's getting so you can't  
Tell the Cajuns from Americans.

Do you hear me calling, do you understand.  
Once it is gone it ain't never coming back, no more.

I got me a job just like my Papa planned.  
I wear a suit and dirt never touch my hands.  
But I still see the look in my Papa's eyes.  
The pain and the shame that he just would not hide.  
Hey mon cher garçon,  
Est-ce que tu me comprends? No more, no more.

[Translation]

## ROUTINE PROCEEDINGS

### HUMAN RIGHTS COMMISSION

#### REPORTS TABLED

**The Hon. the Speaker:** Honourable senators, I have the honour to table two reports from the Canadian Human Rights Commission, namely the annual report for 2001 and the report on employment equity 2001, pursuant to section 61 of the Canadian Human Rights Act.

[English]

### STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

#### REPORT OF NATIONAL FINANCE COMMITTEE TABLED

**Hon. Lowell Murray:** Honourable senators, I have the honour to table the fourteenth report of the Standing Senate Committee on National Finance concerning the equalization policy. Pursuant to rule 97(3), I move that the report be placed on the orders of the day for consideration at the next sitting of the Senate.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

## COURTS ADMINISTRATION SERVICE BILL

### REPORT OF COMMITTEE

**Hon. Lorna Milne**, Chair of the Standing Senate Committee on Legal and Constitutional Affairs, presented the following report:

Thursday, March 21, 2002

The Standing Senate Committee on Legal and Constitutional Affairs has the honour to present its

### FIFTEENTH REPORT

Your Committee, to which was referred Bill C-30, An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts, has, in obedience to the Order of Reference of Tuesday, March 12, 2002, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LORNA MILNE  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Bryden, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

### REPORT OF COMMITTEE

**Hon. Nicholas W. Taylor**, Chair of the Standing Senate Committee on Energy, the Environment and Natural Resources, presented the following report:

Thursday, March 21, 2002

The Standing Senate Committee on Energy, the Environment and Natural Resources has the honour to present its

### ELEVENTH REPORT

Your Committee, to which was referred Bill C-33, An Act respecting the water resources of Nunavut and the

Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, has, in obedience to the Order of Reference of Tuesday, November 27, 2001, examined the said Bill and now reports the same with the following amendment:

*1. Page 4, clause 3: Delete lines 1 to 7.*

Your Committee also made certain observations, which are appended to this report.

Respectfully submitted,

NICHOLAS W. TAYLOR  
*Chair*

### Observations to the Eleventh Report of the Standing Senate Committee on Energy, the Environment and Natural Resources

Your Committee views with concern the Governor-in-Council's regulatory authority over the prescribing of fees for the right to use waters on Inuit-owned land.

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Taylor, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

### TWELFTH REPORT OF COMMITTEE PRESENTED

**Hon. Richard H. Kroft**, Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, March 21, 2002

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

### TWELFTH REPORT

Your Committee recommends that the following funds be released for fiscal year 2002-2003.

#### Aboriginal Peoples (Legislation)

Professional and Other Services	\$ 9,200
Transport and Communications	\$ 5,500
Other Expenditures	\$ 500
<b>Total</b>	<b>\$ 15,200</b>

#### Banking, Trade and Commerce (Legislation)

Professional and Other Services	\$ 18,000
Transport and Communications	\$ 7,500
Other Expenditures	\$ 6,500
<b>Total</b>	<b>\$ 32,000</b>



**Energy, the Environment, and Natural Resources (Legislation)**

Professional and Other Services	\$ 24,500
Transport and Communications	\$ 500
Other Expenditures	\$ 1,000
<b>Total</b>	<b>\$ 26,000</b>

**Human Rights (Legislation)**

Professional and Other Services	\$ 2,000
Transport and Communications	\$ 0
Other Expenditures	\$ 500
<b>Total</b>	<b>\$ 2,500</b>

**Legal and Constitutional Affairs (Legislation)**

Professional and Other Services	\$ 12,600
Transport and Communications	\$ 3,260
Other Expenditures	\$ 1,000
<b>Total</b>	<b>\$ 16,870</b>

**National Finance (Legislation)**

Professional and Other Services	\$ 10,500
Transport and Communications	\$ 4,500
Other Expenditures	\$ 0
<b>Total</b>	<b>\$ 15,000</b>

**Rules, Procedures and the Rights of Parliament**

Professional and Other Services	\$ 11,840
Transport and Communications	\$ 13,000
Other Expenditures	\$ 160
<b>Total</b>	<b>\$ 25,000</b>

**Scrutiny of Regulations (Joint)**

Professional and Other Services	\$ 73,200
Transport and Communications	\$ 2,100
Other Expenditures	\$ 3,450
<b>Total</b>	<b>\$ 78,750</b>

**Transport and Communications (Legislation)**

Professional and Other Services	\$ 33,500
Transport and Communications	\$ 6,200
Other Expenditures	\$ 700
<b>Total</b>	<b>\$ 40,400</b>

RICHARD KROFT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kroft, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

THIRTEENTH REPORT OF COMMITTEE PRESENTED

**Hon. Richard H. Kroft,** Chair of the Standing Committee on Internal Economy, Budgets and Administration, presented the following report:

Thursday, March 21, 2002

The Standing Committee on Internal Economy, Budgets and Administration has the honour to present its

**THIRTEENTH REPORT**

Your Committee recommends a 3.2 per cent economic increase to unrepresented employees of the Senate Administration effective April 1, 2002.

Respectfully submitted,

RICHARD KROFT  
*Chair*

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Kroft, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

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[Translation]

**CANADIAN NATO PARLIAMENTARY ASSOCIATION**

JOINT MEETINGS OF DEFENCE AND SECURITY, ECONOMICS  
AND SECURITY AND POLITICAL COMMITTEES,  
FEBRUARY 17 TO 20, 2002—REPORT OF  
CANADIAN DELEGATION TABLED

**Hon. Shirley Maheu:** Honourable senators, I have the honour of tabling the twelfth report of the Canadian NATO Parliamentary Association. It is the report of the official delegation that represented Canada at the meeting of the Defence and Security, Economics and Security and Political Committees of the NATO Parliamentary Assembly, held in Brussels, Belgium, and Paris, France, from February 17 to 20, 2002.

[English]

**CANADA-EUROPE PARLIAMENTARY ASSOCIATION**

ECONOMIC AFFAIRS AND DEVELOPMENT MEETING, JANUARY 17  
TO 18, 2002, AND COUNCIL OF EUROPE PARLIAMENTARY  
ASSEMBLY MEETING, JANUARY 21 TO 25, 2002—  
REPORT OF CANADIAN DELEGATION TABLED

**Hon. Lorna Milne:** Honourable senators, I have the honour to table the report of the delegation of the Canada-Europe Parliamentary Association concerning the meeting of the Committee on Economic Affairs and Development, held in London, England, on January 17 and 18, 2002, and the first part of the 2002 ordinary session, Parliamentary Assembly of the Council of Europe held in Strasbourg, France from January 21 to 25, 2002.

## NATIONAL FINANCE

COMMITTEE AUTHORIZED TO MEET  
DURING SITTING OF THE SENATE

**Hon. Lowell Murray:** Honourable senators, with leave, I move:

That the Standing Senate Committee on National Finance have power to sit while the Senate is sitting on Monday, March 25, 2002, and that rule 95(4) be suspended in relation thereto.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

## CHALLENGES IN FOREIGN POLICY

NOTICE OF INQUIRY

**Hon. Pierre De Bané:** Honourable senators, I give notice that on Wednesday next, March 27, 2002, I will call the attention of the Senate to what I regard as the top ten foreign policy challenges facing Canada.

[English]

## VISITORS IN THE GALLERY

**The Hon. the Speaker:** Honourable senators, I draw your attention to the presence in our gallery of members of the Forum for Young Canadians.

[Translation]

On behalf of all the senators, I welcome all of you to the Senate of Canada.

[English]

## ACCESS TO CENSUS INFORMATION

PRESENTATION OF PETITIONS

**Hon. Lorna Milne:** Honourable senators, I have the honour to present 1,518 signatures from Canadians in the provinces of B.C., Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia and the Northwest Territories who are researching their ancestry, as well as signatures from 580 people from 20 states of the United States and two people from Germany who are researching their Canadian roots as well. A total of 2,100 people call upon Parliament:

...to take whatever steps necessary to retroactively amend the Confidentiality-Privacy clauses of Statistics Acts since 1906, to allow release to the Public after a reasonable period of time, of Post-1901 Census reports starting with the 1906 Census.

Furthermore, honourable senators, I have the honour to present 149 signatures from Canada's home children, who petition as follows:

...that the Canadian Government make available all post 1901 Census returns since they are the only public means available to Canadian Home Children and their descendants, who make up 10 per cent and more of our population, to access the whereabouts of their siblings and relatives from whom they have been separated by this country's tacit acceptance of a policy now recognized by the British Government as being *misconceived* and the cause of *irreparable* and *irrevocable* damage to the child migrants and their descendants.

● (1410)

This is a grand total of 2,249 signatures today, in addition to the 14,805 that I have presented in this calendar year. I have now presented petitions with 17,054 signatures to the Thirty-seventh Parliament and petitions with over 6,000 signatures to the Thirty-sixth Parliament, all calling for immediate action on this very important piece of Canadian history.

## QUESTION PERIOD

### SECURITY AND INTELLIGENCE

COUNTERTERRORISM PLAN

**Hon. J. Michael Forrestall:** Honourable senators, my question is for the Leader of the Government in the Senate. It is my understanding that the government drafted a national counterterrorism plan in 1997 and that it involves three lead ministers: the Minister of Foreign Affairs and International Trade, the Minister of National Defence and the Solicitor General of Canada. Will the minister table this document in order that the honourable senators might have an opportunity to review it and its contents?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I do not have that document to table this afternoon, as I am sure the honourable senator is aware. However, if such a document is available and if it does not violate any secrecy requirements, I will make it available to the honourable senator.

While I am on my feet, and because Senator Forrestall has asked this question a number of times and because it is of interest to those serving in the war on terrorism that is taking place in Afghanistan, I wish to read the following document carefully because I think it is very critical.

An Order in Council declaring a Special Duty Area is made for areas outside of Canada where hostilities are ongoing, imminent or threatened. Its purpose is to ensure Pension Act benefits for CF members serving in those areas if they fall ill, or are hurt disabled, or killed.

Work is underway to designate as Special Duty Areas those places where CF members are deployed on Op Apollo.



Final decisions on these Special Duty Areas will be retroactive to 11 Sep 01.

All of our members serving on Op Apollo will be appropriately taken care of in the event of illness or injury.

**Senator Forrestall:** Honourable senators, I welcome this information. I am sure that the hundreds of serving personnel, especially their families, will be particularly grateful for that information. While the Order in Council is not yet complete, as I understand from the minister's comments in this respect, the information nevertheless goes a long way toward relieving the anxiety of not knowing whether this enhancement of certain benefits has taken place. To that end, I welcome this response.

To the extent that the minister's comments will be included in our written records and available to us later today as published in the *Debates of the Senate*, I shall not ask for the document to be tabled. However, when the Order in Council is completed, perhaps the minister would be gracious enough to bring the order forward so that we might have a look at it. I would appreciate that very much.

## CUSTOMS AND REVENUE AGENCY

### RADIATION DETECTORS AT BORDER CROSSINGS AND PORTS

**Hon. J. Michael Forrestall:** Honourable senators, I have a further question for the Leader of the Government in the Senate. As the minister will know, a religious scholar in the United States of some repute, Dr. Morey, has stated that a radiological weapon may well have been transported across the Canadian border and into the United States through Niagara Falls some three years ago as part of the al-Qaeda operation. The United States has recently placed radiation detectors at various points of entry into the United States in an effort to keep out radiological weapons. Will Canada be following suit and make available radiation detectors at our major points of entry, including ports?

**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for his comments on the issue of the veterans. I wish to publicly thank my staff for acquiring this information as quickly as they did. Like the honourable senator, I felt this was information that we had to get out as quickly as we could.

Should and when the Order in Council becomes available, I shall make members of this house aware of the fact that the order has been duly signed and implemented.

In terms of the honourable senator's question with respect to the radiological detector, I do not know whether we will have similar equipment in Canada. There has been a commitment between Canada and the United States to share certain information coming from some of this new specialized equipment. If there is anything specific with respect to the radiological detector, I shall bring forward that information by a delayed answer.

**Senator Forrestall:** The minister has generally answered my supplementary question.

I am sure that honourable senators who are following this important matter would be interested in learning where we stand with the appropriate United States authorities in the sharing of this information. There is not much point in having updated equipment on this side of the chamber and one over there, when one in the middle might very well serve both purposes and might be of some functional use to our border authorities.

**Senator Carstairs:** The honourable senator is quite correct. There is not much point in duplicating equipment when the information could be readily shared at common points. That is all part of the ongoing negotiation between Canada and the United States with respect to border security.

## PUBLIC WORKS AND GOVERNMENT SERVICES

### SPONSORSHIP PROGRAM—COMMUNICATIONS AGENCIES—REPRESENTATIVE IN BRITISH COLUMBIA

**Hon. David Tkachuk:** My question is for the Leader of the Government in the Senate. Yesterday, I asked some questions about Groupe Everest, Groupaction Marketing Inc., and Lafleur Communications Marketing, the three Montreal firms in charge of sponsorship funds.

The Leader of the Government in the Senate offered a spirited defence of this rather strange situation where these firms are paid 12 per cent for government grants that are passed out to cultural and sports groups in the province. Since the minister gave such a spirited defence of the need for these agencies, which is another new program of the Liberal Government of Canada, can she tell me whether the province of British Columbia is blessed to have one of these agencies as well?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I will begin my answer to the honourable senator by fully admitting that I did not always understand his questions yesterday, and when reading my answers, I am not sure I fully understood my answers.

I asked my staff this morning to give me a fuller briefing on the whole of the sponsorship program. Hopefully, honourable senators, I will better understand what I will say today. That might be helpful to the entire chamber.

There are nine agencies that handle the sponsorships across the country. The nine communications agencies are: Compass Communications Inc., Focus Strategies and Communications, Groupaction Marketing, Communication Coffin, Gosselin Relations publiques, Groupe Everest, Lafleur Communication Marketing, TNC Multicom Inc., and Internal Transfer.

I do not have the addresses of those particular communications firms, so I am unable to determine whether one of them is located in the province of British Columbia.



I can tell honourable senators, however, that a number of British Columbia events have met the sponsorship criteria, including the Kelowna Dragon Boat Festival, the Winnipeg International Children's Festival, the Saskatchewan Jazz Festival, and so forth.

**Senator Tkachuk:** Could the Leader of the Government in the Senate also provide the amounts, by firm and by province, that have been used out of this budget?

• (1420)

**Senator Carstairs:** Honourable senators, that information will eventually be available in public accounts. I can give the honourable senator some of the figures with respect to the amounts that have been managed. The three firms that he has been particularly interested in, which I believe are Groupaction, Lafleur and Gosselin, received less than 25 per cent of the prescribed share.

This has all been done by a competitive process since February 2001 and posted on the MERX for 30 days. Forty-one agencies across the country demonstrated their interest. Fourteen agencies actually ended up submitting a proposal and, of those, nine met the criteria and were selected.

**Senator Tkachuk:** The Leader of the Government knows what we are like. We always ensure that we get our fair share.

I noticed in *The Globe and Mail* today a discussion about Groupaction Marketing Inc. being added to the list of the investigation of those two reports that were exactly the same. I now find out, a third report will be added to the audit. It seems that this document was made public through the CBC French network. It said that sponsorship programs would be helpful in promoting the visibility of the federal government. The list includes blueberry, cow, violin, mushroom and hog festivals. I thought I would let the Leader of the Government know that, in Saskatchewan, we could qualify for all of them. I want to make sure that we get our fair share of the government's largesse. If the minister could take it upon herself to let us know, before public accounts come out, in case we are a little behind, it would allow us to get busy and get some of that money so the Government of Canada can sponsor all these wonderful hog, violin and blueberry festivals in our province as well.

**Senator Carstairs:** I will give the honourable senator an even better suggestion. He should direct those who contact him about such festivals to the Contracts Canada Web site, where they can immediately make contact and request such sponsorship.

## INTERNATIONAL BOUNDARY WATERS TREATY ACT

COUNCIL OF CANADIANS—BULK WATER REMOVAL—  
POSITION OF GOVERNMENT

**Hon. Eymard G. Corbin:** Honourable senators, my question is for the Leader of the Government in the Senate. Let me

[ Senator Carstairs ]

preface it by saying that I thought it was quite appropriate for Senator Léger to quote a poem by Ronald Després of New Brunswick. I especially recall a phrase — and I will translate it, although it is always risky to translate poetry — stating that "Our empire is as uncertain as water." Senator Léger wanted to commemorate World Poetry Day.

Coincidentally, tomorrow happens to be International Water Day. I received a press release from the Council of Canadians to the federal government, dated March 18, 2002. This was circulated by Senator Carney's office. Of course, I do not want to pick a fight with Senator Carney, but I profoundly disagree with her views on a bill we passed before Christmas, an act to amend the International Boundaries Water Treaty Act. The press release reads, in part:

The Council of Canadians today called on the federal Liberals to ban bulk water exports, create a national water strategy and reverse its decision on Bill C-6 to give the Minister of Foreign Affairs the power to license bulk water exports and diversions.

As the honourable senator knows, I am the sponsor of that bill, and I could not get my argument across that it is not a bulk water export bill. Nevertheless, some people persist in thinking that. Perhaps they are poetically inclined. I do not know.

Does the government hold to the same interpretation as the Council for Canadians and does it intend to retreat on Bill C-6?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for his question. The Government of Canada totally disagrees with the Council of Canadians. Canada's position on bulk water removal is clear. The purpose of the bill is to prohibit the bulk removal of water from all major drainage basins in Canada.

Bill C-6, which received Royal Assent December 18, 2001, as a result of the honourable senator's hard work and that of others, will protect the Great Lakes and other boundary waters from bulk water removal under federal law, which confirms Canada's commitment. All provinces have developed similar legislation or regulations, as Canadians are looking to all levels of government to assure the future protection of water. It is important to look at the Web site to see what the Government of Canada is saying to the public as a whole. Anyone can go to the Government of Canada Web site, where they will find the following about Bill C-6:

The purpose of this enactment is to better implement the Treaty relating to Boundary Waters and Questions arising along the Boundary between Canada and the United States by prohibiting the removal of boundary water from the water basins in which the boundary waters are located and requiring persons to obtain licences from the Minister of Foreign Affairs for water-related projects that affect the natural level or flow of waters on the United States side of the border.

## NATIONAL DEFENCE

● (1430)

[Translation]

WAR IN AFGHANISTAN—ASSURANCE THAT PRISONERS TURNED OVER TO UNITED STATES NOT FACE CAPITAL PUNISHMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, has the government sorted out its policy with reference to Canadian Armed Forces personnel taking prisoners in the war on terrorism and turning those prisoners over to the United States, a country which continues to impose the death sentence under its criminal law and military law, whereas we in Canada have repealed the death sentence from the National Defence Act and the general criminal law?

Prior to turning over prisoners, has the government determined its policy vis-à-vis seeking a guarantee from the American authorities that they would never seek the death penalty for anyone they charged?

**Hon. Sharon Carstairs (Leader of the Government):** As I have explained to the honourable senator before, and I know that he has received a delayed answer to this effect, the death penalty has not been excluded from the Geneva Conventions. The policy of Canada is to follow the Geneva Conventions inasmuch as we have a responsibility to do so. As he knows, prisoners have been turned over to the United States. They will continue to be turned over to the United States if they are captured. Many of those prisoners will remain in Afghanistan and will be subject to Afghani law.

**Senator Kinsella:** Honourable senators, this issue is perhaps the most serious, and it has been missed by the media and everyone else in Canada in the discussion about the Canadian Forces turning over prisoners to the American Armed Forces. Canadian values reject the proposition that the death penalty ever be imposed. We have done so in our ordinary criminal law and our military law. The National Defence Act was amended. Canadians have rejected, as a basic principle, the imposition of the death penalty.

Is the Leader of the Government telling us that notwithstanding our domestic law, the government's policy is that it will ignore our domestic values and allow the death penalty to be imposed because the Geneva Conventions permit the death penalty? Even without receiving assurance from another power, would we turn over a prisoner who may be subject to the death penalty? Is that the position of the Government of Canada?

**Senator Carstairs:** I suggest to the honourable senator that we are not engaged in domestic law since the events are not taking place in Canada.

## DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table in this House a response to a question raised in the Senate on March 12, 2002, by Senator Roche, regarding the posture review on the deployment of nuclear weapons.

## FOREIGN AFFAIRS

UNITED STATES—POSTURE REVIEW ON  
DEPLOYMENT OF NUCLEAR WEAPONS

*(Response to question raised by Hon. Douglas Roche on March 12, 2002.)*

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the centrepiece of global non-proliferation and disarmament efforts and is therefore of critical importance to Canada's non-proliferation, arms control and disarmament policy. The NPT represents a three-part bargain among its members: nuclear non-proliferation by non-nuclear weapon States, nuclear disarmament on the part of nuclear weapon States and cooperation in the peaceful uses of nuclear energy among all States Parties.

At the 2000 NPT Review Conference, the five nuclear weapon States provided an unequivocal undertaking to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under Article VI of the Treaty. As Canada's overriding objective has been and remains the complete elimination of nuclear weapons, we have welcomed this unequivocal undertaking.

Canada's delegation to the April 8-19 NPT Preparatory Committee meeting in New York will seek to preserve the Treaty's authority and integrity, underlining that global stability and security depend on the implementation by the international community of *all* the treaty's legally-binding obligations, as well as the politically-binding commitments which have augmented the Treaty regime through successive review cycles.

This will require work on a broad range of issues, from encouraging the widespread adoption of IAEA safeguards in order to promote compliance with the Treaty, to supporting initiatives to combat potential nuclear terrorism, to emphasising the need for progress towards the fulfilment of Article VI obligations, including the 13-Step action plan elaborated at the May 2000 Review Conference. Canada will be active in all these areas at the forthcoming NPT Preparatory Committee meeting.



[English]

## ORDERS OF THE DAY

### YUKON BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Charlie Watt:** Honourable senators, I am pleased to have this opportunity to speak to Bill C-39 in respect of the Yukon Act.

Honourable senators, I want to bring to your attention a matter that stretches back almost to the beginning of time in Canada, 1867.

We know that there was much wrongdoing and that many mistakes have been made right from the beginning to the present. I do not think we can be expected to correct all the mistakes, but we certainly should learn from them and not make the mistakes again in a similar fashion.

Honourable senators, bear with me, as I try my best to bring the matter into perspective so that you may all understand where we come from and how we deal with the subject of claims from time to time.

I do not think that, in the history of this country, anyone has ever spoken to an institution such as this chamber in an effort to lay out the reasoning and attitudes of Aboriginal people as they relate to why the Government of Canada has had such a clear obligation towards Aboriginal people from the beginning.

Honourable senators, one day, before we received the visitors from other parts of the world, we were the only people in North America occupying this continent. Over time, we have received a number of people from different parts of the world. I do believe that the Inuit and Indians have done their part to accommodate them and to help them to survive in North America, when the climate made it a difficult place in which to survive. We have contributed a great deal to the well-being of these people.

I am greatly concerned that in its present form, Bill C-39 represents a clear violation of the Constitution of Canada and, for that reason, will be declared by the courts to be of no force and

effect in those parts of the Yukon Territory where land claims remain unresolved.

It is important to note that about one-half of the Yukon Territory, including the city of Whitehorse, continues to be subject to outstanding land claims.

I should also note that it is virtually certain that Bill C-39 will be challenged in court on constitutional grounds if it is enacted in its present form. As Senator Christensen noted in her speech on March 13, the 1870 order is already the subject of outstanding litigation.

Moreover, honourable senators, representatives of the affected First Nations have informed me that further formal steps have been taken recently to prepare to challenge Bill C-39 on constitutional grounds, and that further legal proceedings are anticipated if the Bill is enacted in its present form prior to the settlement of the First Nations outstanding land claims.

I have to say that I fully appreciate why the affected First Nations will turn to the courts to protect their rights to their un-surrendered lands. It is what I would do in their circumstances. Indeed, it is exactly what we in Nunavik did do, leading up to 1975, when our constitutional protected right to a settlement of our claims was ignored.

Honourable senators, based on my experience, I cannot help but believe that we are certainly not advancing the cause of anyone in Yukon by enacting legislation that so clearly conflicts with the constitutionally protected rights of the affected First Nations and that that will not survive a challenge in court.

To fully appreciate why Bill C-39 is fatally flawed, it is essential to know something of its background. The historical roots of Bill C-39 stretch back to the very first session of the first Parliament of Canada in 1867. On December 16 and 17, 1867, the House of Commons and the Senate invoked section 146 of the British North America Act and adopted a joint resolution requesting the transfer of two great tracts of land known as Rupert's Land and the North-western Territory from Britain to Canada. Those two areas included traditional territory of a great many Aboriginal people of Canada, including my people, in what is now Nunavik, formerly Northern Quebec.

In that joint declaration of 1867, the members of the other place and the Senate made the following solemn pledge:

...that upon the transference of the territories in question to the Canadian government, the claims of the Indian tribes to compensation for lands required for purposes of settlement will be considered and settled in conformity with equitable principles which have uniformly governed the British Crown in its dealings with the aborigines.

That undertaking by the Commons and the Senate of Canada in 1867 became entrenched as part of the Constitution of Canada in 1870, under the terms of the Rupert's Land and North-western Territory Order.



It is important to note, honourable senators, that when we speak of the rights of the Aboriginal people under the 1870 order, we are not speaking about rights that originated in an act of Parliament. Instead, we are speaking of rights that were first expressed in a resolution jointly adopted by the Senate of Canada and the House of Commons in 1867 and later enacted by Imperial Order of Great Britain.

After acquiring what were then Rupert's Land and the North-western Territory, in 1870, on the constitutionally entrenched condition that Aboriginal peoples' claims to compensation be settled in accordance with certain principles, the Government of Canada immediately initiated what has come to be known as the post-Confederation treaty process.

Many honourable senators may already know that the essential purpose of the post-Confederation treaty process, which the Canadian Government had pursued for six decades, from 1870 to approximately 1930, was to fulfil the obligation that the Canadian Government assumed under the 1870 order to settle the affected Aboriginal peoples' claims prior to opening their homeland to settlement by others.

• (1440)

It is absolutely critical to remember that, at the mid-point of the post-Confederation treaty process, gold was discovered in the Klondike. However, even though the subsequent gold rush resulted in Treaty No. 8, the Canadian government made no attempt whatsoever to honour the obligations it had assumed under the 1870 order to the Aboriginal people of the Yukon Territory.

Following the conclusion of the post-Confederation treaty process around 1930, Canada made no further attempt to enter into treaties with the Aboriginal peoples whose lands were required for the purposes of settlement. This remained the case until 1973.

I think it is fair to say that 1973 was a great turning point in the history of Aboriginal land rights in Canada. On January 31 of that year, the Supreme Court of Canada released its landmark decision in the Nisga'a Peoples' court case known as the *Calder* case. Two weeks later, on February 14, 1973, the late great Chief Elijah Smith travelled to Ottawa with the other Chiefs of Yukon Indian People, as they were then known, and presented Prime Minister Trudeau with the claim document entitled *Together Today for Our Children Tomorrow*.

If you wish to access this presentation, honourable senators, it is on film in the National Film Board. I have seen it on the Aboriginal television network, so it can be accessed.

On August 8, the then Minister of Indian Affairs, Jean Chrétien, made two historic public announcements. First, he announced Canada's new comprehensive claims policy, and in that regard confirmed that the Government of Canada was prepared to negotiate treaties or land claims agreements with those Aboriginal people of Canada who could establish to

Canada's satisfaction that their aboriginal claims, rights and interests remained intact. Second, the minister announced that the claims of the Yukon Indian people were the first comprehensive land claims to be formally accepted under Canada's new policy.

Honourable senators, it should be clear that the constitutionally entrenched terms and conditions upon which those First Nations' traditional territories were transferred to Canada remain unfulfilled in those parts of Yukon Territory where the First Nations' claims remain unsettled. From my perspective, it should also be just as obvious that Bill C-39 is flagrantly inconsistent with those constitutionally entrenched terms and conditions.

Under the terms of the 1870 Order, the Government of Canada acquired control of the lands of the affected First Nations, subject to the constitutionally entrenched undertaking to settle their claims prior to opening their lands to settlement by others.

However, as our colleague Senator Cochrane observed in the eloquent remarks she made on March 19, as the result of Bill C-39:

The territory will be able to sell and lease land. It will be able to decide what type of development takes place on property through its power to issue permits.

Perhaps more significantly, the territory will retain the money made from the sales and leases of Yukon water, land and resources. Basically, as a result of Bill C-39, decision-making power with regards to land, minerals and waters will rest firmly in the hands of the people and Government of Yukon...

It appears to me, honourable senators, that one does not need to be a lawyer to realize that there exists a rather large and obvious conflict between the constitutionally entrenched obligation of the Government of Canada to settle the affected First Nations' claims before opening their lands to settlement by others, on the one hand, and the granting of the authority to the third party, through Bill C-39, to do the very thing which the 1870 order was intended to protect against, on the other hand.

To put it in other words, honourable senators, how can Canada suggest that it is fulfilling the solemn undertaking which the Senate of Canada made in 1867, and which received constitutional protection in 1870, when prior to the settlement of the First Nations' formally recognized claims the Canadian government is proposing to enact legislation to grant to a third party the ability to sell the affected First Nations' territory out from under their feet, and to keep the proceeds from that sale?

In conclusion, honourable senators, if you turn your backs to the solemn pledge our predecessors made in December 1867, and vote to pass Bill C-39 in its present form, you will be doing a great disservice to the people of Yukon, Aboriginal and non-Aboriginal alike, and to the reputation of the Senate of Canada.

Every once in awhile we are presented with an issue which requires us to give full expression to the essential, original purpose of this institution of which we are all privileged to be members. I say to you, honourable senators, that Bill C-39 presents us with such an issue. I urge all honourable senators to reflect again upon the constitutionally protected undertaking we made to the Aboriginal people in the 1870 order, and to consider the terrible consequences for the Yukon Territory if we turn our back on that commitment.

**The Hon. the Speaker:** Senator Watt, I am sorry to advise you but your allotted time of 15 minutes has expired.

Honourable senators, is leave granted for an extension?

**Hon. Senators:** Agreed.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I agree that Senator Watt may take the time to finish his comments, as is customary in such a situation.

[English]

**Senator Watt:** I thank the honourable senators for their consideration.

Speaking for myself, the conflict between Canada's obligations to the First Nations, on the one hand, and Bill C-39, on the other, is such that I cannot, in good conscience, do anything other than speak against this bill, and I would urge all of you who wish to uphold the honour of the Crown to do the same.

**Senator Cools:** The honour of the Crown. The honour of the Crown.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I assume the leave granted for Senator Watt to finish his speech will be inclusive of time for questions and comments?

Therefore, honourable senators, I listened very carefully to what Senator Watt said, and he has brought a new dimension to our debate at third reading on this bill.

Senator Watt has told us, honourable senators, that if we pass this bill, it will be found to be *ultra vires*. Senator Watt has told us that there is an Aboriginal rights issue that flows from, not 1982 and the Constitution Act as embodied in section 35, but 1867, when our predecessors in this chamber supported a joint declaration with members of the other place that was later confirmed by statute in 1870. There are serious constitutional questions. I am not convinced, as I look at the record of the proceedings of the Standing Senate Committee on Energy, the Environment and Natural Resources, that the detailed constitutional questions have been addressed.

[ Senator Watt ]

• (1450)

Therefore, it seems to me that we need to consult with our colleagues who have constitutional expertise to ensure that this issue is one that meets the test of the Constitution. I am not ready to go so far as to suggest that we refer the matter to the Standing Senate Committee on Legal and Constitutional Affairs. However, I will take the weekend to reflect upon it. I therefore move the adjournment of the debate.

On motion of Senator Kinsella, debate adjourned.

## THE ESTIMATES, 2002-03

### INTERIM REPORT OF NATIONAL FINANCE COMMITTEE ON MAIN ESTIMATES ADOPTED

The Senate proceeded to consideration of the thirteenth report (interim) of the Standing Senate Committee on National Finance (2002-03 Estimates), presented in the Senate on March 19, 2002.

**Hon. Lowell Murray:** Honourable senators, I move to the adoption of this report.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Anne C. Cools:** Honourable senators, I wanted to make it clear on the record that this is the first interim report and that the committee will be continuing its study of the Main Estimates 2002-03 over the next year.

I wish to put on the record the committee's sincere appreciation of the Treasury Board officials who appeared before us again and again and who, with great discipline and openness and forthrightness, did their very best to address the concerns and the questions of honourable senators. As honourable senators know, the committee met on Tuesday, March 12, 2002, with officials Mr. David Bickerton and Ms Laura Danagher. I wanted the record to note that the committee feels very appreciative of their diligent and excellent work.

In addition to that, honourable senators, since it is important that we express our sincere appreciation, and since it was Senator Murray who spoke to the last report and he thanked all the members of the committee, I thought that, as deputy chairman, I should take the opportunity to thank Senator Murray for his chairmanship of the committee and for his very able, steady and balanced hand —

**Some Hon. Senators:** Oh, oh!

**Senator Cools:** — as he tends to keep the committee on the very right and proper track. On behalf of senators on our side, I wish to express our appreciation for the work of Senator Murray.



In addition to that, I think that I can speak for all honourable senators in thanking the other members of the committee for their earnest, diligent and hard work. This is a subject matter that is inherently difficult and troublesome. The supply process here in the Senate is very different from what it is in the House of Commons.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and report adopted.

The Senate adjourned during pleasure.

[Translation]

•(1810)

## ROYAL ASSENT

Her Excellency the Governor General of Canada, having come and being seated on the Throne, and the House of Commons having been summoned, and being come with their Speaker, Her Excellency the Governor General was pleased to give the Royal Assent to the following bills:

An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (*Bill S-14, Chapter 02/2002*).

An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act (*Bill C-37, Chapter 03/2002*).

An Act to amend the Canadian Commercial Corporation Act (*Bill C-41, Chapter 04/2002*).

The House of Commons withdrew.

Her Excellency the Governor General was pleased to retire.

The sitting of the Senate was resumed.

•(1520)

[English]

## STATUS OF PALLIATIVE CARE

### INQUIRY—DEBATE ADJOURNED

**Hon. Jane Cordy:** for Senator Kirby, rose pursuant to notice of February 5, 2002:

That he will call the attention of the Senate to the status of palliative care in Canada.

She said: Honourable senators, it gives me pleasure to rise today and draw the attention of the Senate to the status of palliative care in Canada.

Palliative care is an issue on which the Senate of Canada has always been at the leading edge. In 1995, the Special Senate Committee on Euthanasia and Assisted Suicide, chaired by Senator Joan Neiman, tabled a report entitled, "Of Life and Death."

Senator Carstairs followed up by chairing the 2000 subcommittee to update, "Of Life and Death." This subcommittee was created to develop a five-year report card on the special committee's unanimous recommendations. This report, entitled, "Quality End-of-Life Care: The Right of Every Canadian," was tabled in the Senate in June 2000.

The subcommittee's final report included 14 recommendations for the federal government. The recommendations dealt with five areas: the need for a national strategy on end-of-life care, the need for income and job protection for caregivers, the need for increased education and training for health care providers, the need for home care and pharmacare programs and the need for increased research and dissemination of findings. Momentum on carrying out these recommendations has been building and continues to build since the subcommittee reported to the Senate in June of 2000.

The Senate Committee on Social Affairs, Science and Technology has been studying the role of the federal government in health care today. One of many issues discussed was the issue of primary care reform and, in particular, how palliative care fits into this continuum of care. We have heard witnesses on this subject, and their observations were noted in the second volume of the report.

According to Dr. Michael Gordon of the National Association of Canadian Actuaries, "The time has come to ensure that all Canadians who require palliative care have access to it."

I would like to assure all honourable senators that the issue of palliative care will be an issue of great importance as we work toward a workable solution to the pressures now facing our health care system.

Last December, the chair of our committee, Senator Kirby, received a letter from the Honourable Allan Rock, Minister of Health, and from the Honourable Sharon Carstairs, Minister with Special Responsibility for Palliative Care. This letter was tabled in the Senate by Senator Kirby on December 5, 2002. The purpose of the letter was to provide committee members with an update of the federal government's initiatives since the tabling of the subcommittee report to update "Of Life and Death" entitled, "Quality End-of-Life Care: The Right of Every Canadian."



Today I want to review the major milestones that have been accomplished since that final report was tabled in June 2000. These key accomplishments directly respond to many of the top priorities in the subcommittee's report. However, it is not my intention to provide a detailed account. I will leave that to my colleague Senator Carstairs who intends to speak on this topic at a later date. I will, however, address three main points that were addressed in that letter.

Since the mid-1990s, the Government of Canada has identified palliative care as a very important initiative that allows our seniors and those who are terminally ill to live their remaining time in dignity, surrounded by family members and loved ones. For that reason, the government has been part of programs such as rural palliative home care projects, community-based palliative care for Canadian seniors, and now, with the appointment of Senator Carstairs as Minister with Special Responsibility for Palliative Care, the government has given this very important issue a voice in cabinet.

Another major initiative undertaken by the government was the establishment of a Secretariat in Health Canada to provide support to both the Minister of Health and Senator Carstairs in the development of a national strategy on palliative care. The secretariat also serves as a focal point for the coordination of initiatives across federal departments and strengthens opportunities to work with various stakeholders to identify priorities for both collaborative and complementary action.

As well, the inclusion of palliative care on the agenda of Canada's health ministers at their annual conference last September sent the signal that all levels of government have identified palliative care as an issue of significant importance. For the first time, federal, provincial and territorial governments were able to share information on current initiatives.

It is clear to me that the Senate reports have served to raise the profile of this most important issue of palliative care. They have motivated Canadians across the country and across the health spectrum to work together to ease end-of-life suffering for the terminally ill.

Honourable senators, I have raised only some of the main issues this afternoon related to the status of palliative care in Canada. I look forward to further discussion on this most important topic.

On motion of Senator Morin, debate adjourned.

[*Translation*]

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Monday, March 25, 2002, at 4 p.m.

**The Hon. the Speaker:** Honourable senators, is leave granted?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Monday, March 25, 2002, at 4 p.m.

**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
 (1st Session, 37th Parliament)  
**Thursday, March 21, 2002**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01/01/31	01/05/10	6/01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05/09	3	01/05/10	01/06/14	13/01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01/01/31	01/02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01/04/26	01/05/10	4/01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01/02/07	Transport and Communications	01/03/01	0	01/03/12	01/05/10	3/01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01/05/02  Senate agreed to Commons amendments 01/06/12	01/06/14	14/01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01/02/20	01/03/01	Banking, Trade and Commerce	01/03/22	0	01/04/04	01/06/14	12/01
S-17	An Act to amend the Patent Act	01/02/20	01/03/12	Banking, Trade and Commerce	01/04/05	0	01/05/01	01/06/14	10/01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01/03/22	01/05/03	National Finance	01/05/17	11 + 2 at 3rd 01/06/06	01/06/07	01/10/25	25/01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01/03/27	01/04/05	Aboriginal Peoples	01/05/10	0	01/05/15	01/06/14	8/01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01/09/19	01/10/17	Banking, Trade and Commerce	01/10/25	0	01/11/01	01/12/18	30/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament	02/03/05	4 + 1 at 3rd	02/03/19		
S-40	An Act to amend the Payment Clearing and Settlement Act	02/03/05	02/03/12	Banking, Trade and Commerce	02/03/14	0	02/03/19		
S-41	An Act to re-enact legislative instruments enacted in only one official language	02/03/05	02/03/20	Legal and Constitutional Affairs					

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negotiated 01/12/10	11 1 at 3rd 01/12/13	01/12/18	02/02/19	1/02
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs	02/02/19	2 + 1 at 3rd 02/03/12	02/03/19		
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce					
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	01/12/18	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-27	An Act respecting the long-term management of nuclear fuel waste	02/03/05	02/03/20	Energy, Environment and Natural Resources					
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-30	An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts	02/03/05	02/03/12	Legal and Constitutional Affairs	02/03/21	0			
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	01/12/18	33/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	01/12/18	28/01
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21)  01/11/22 (reintroduced)	01/11/27	Energy, the Environment and Natural Resources	02/03/21	1			
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	01/12/18	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs	02/03/13	0			
C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples	02/02/19	0	02/02/20	02/03/21	3/02
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources	02/03/07	0			
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0	02/02/21	02/03/21	4/02
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-49	An Act to implement certain provisions of the budget tabled in Parliament on December 10, 2001	02/03/19	02/03/20	National Finance					
C-51	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	02/03/20							
C-52	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/03/20							

COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Gratstein)	01/01/31	01/02/08				01/02/08 Senate agreed to Commons amendment 01/12/12	01/12/18	36/01
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology	01/12/14	0			
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01	02/03/21	2/02
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	Bill withdrawn pursuant to Commons Speaker's Ruling 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10	01/11/27	0			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Energy, the Environment and Natural Resources					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12		Transport and Communications					
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)	(01/12/14)				
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Metis People (Sen. Chailfoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13							
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							
S-39	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/02/19							

PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroit)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	42/01
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01

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CANADA

# Debates of the Senate

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1st SESSION

• 37th PARLIAMENT

• VOLUME 139

• NUMBER 101

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OFFICIAL REPORT  
(HANSARD)

Monday, March 25, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

## OFFICIAL REPORT

### CORRECTION

[*Translation*]

**Hon. Eymard G. Corbin:** Honourable senators, I wish to make a correction to the *Debates of the Senate* for March 21, 2002.

[*English*]

Honourable senators, I believe that I also have Senator Carstairs' accord to make a correction on her behalf. In English, in a question I put to Senator Carstairs on March 21, 2002, on page 2492 of Hansard, I said:

Of course, I do not want to pick a fight with Senator Carney, but I profoundly disagree with her views on a bill we passed before Christmas.

[*Translation*]

This was translated into French as follows:

Bien entendu, je ne veux pas m'en prendre au sénateur Carney, mais je suis tout à fait d'accord avec son point de vue [...]

[*English*]

That is diametrically opposed to what I said in the English. The same thing happened to Senator Carstairs in her response to my question. Indeed, on the same page, she said:

The Government of Canada totally disagrees with the Council of Canadians.

[*Translation*]

This was translated into French as follows:

Le gouvernement du Canada est tout à fait d'accord avec le Conseil des Canadiens.

[*English*]

I do not know if they use robots in the translation office, but mistakes like this are unforgivable.



## THE SENATE

Monday, March 25, 2002

The Senate met at 4:00 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### WORLD TUBERCULOSIS DAY

**Hon. Yves Morin:** Honourable senators, yesterday was World Tuberculosis Day, a day to take a deep breath and reflect on the fact that tuberculosis has taken more lives than any other single infection in history.

Sir Wilfrid Laurier suffered the effects of tuberculosis throughout his career and eventually succumbed to a complication of the disease. Canadian physician Dr. Norman Bethune suffered from the same infection. In fact, for the first three decades of our history, tuberculosis was the number one killer of Canadians.

[Translation]

I would like to pay tribute to all of the pioneers, the physicians and nurses, who, in the days before antibiotics, struggled valiantly and effectively against this disease, which was so prevalent among the disadvantaged. Remarkable contributions were made by many, including the medico-social team which practiced in Trois-Rivières between 1925 and 1970, comprised of Dr. Hervé Beaudoin, a pulmonary disease specialist, and public health nurses Blanche Teasdale and Jeanne Lamothe.

[English]

However, tuberculosis is not a disease of the past — not in Canada, where about 2,000 new cases are reported each year and where the incidence among the Aboriginal population is unacceptably high, and not elsewhere, where almost 2 billion people, one third of the world's population, are now infected with the tuberculosis bacteria.

At the G8 summit in Japan, our Prime Minister made a commitment on behalf of Canada to help step up the fight against infectious disease, especially tuberculosis. Research plays a key role in the fight against this disease. Scientists associated with the CIHR Institute of Infection and Immunity, under the able direction of Dr. Bhagirath Singh from the University of Western Ontario, are working to find out how the tuberculosis bacterium becomes drug resistant and what genes control the spread of the disease.

With the sequencing of this microbe's genome, new research opportunities are emerging in finding new drugs and vaccines against tuberculosis. In fact, researchers associated with the

institute have received over \$4 million for tuberculosis research in the last three years.

[Translation]

Although much remains to be done, this scientific research once again demonstrates that Canada is at the leading edge, as far as putting science at the service of the developing countries is concerned. Thank you for your kind attention, honourable senators.

[English]

#### NOVA SCOTIA

##### GREENWOOD—CLOSE OUT OF 434 BLUENOSE SQUADRON

**Hon. Wilfred P. Moore:** Honourable senators, yesterday I attended the ceremony commemorating the close out of 434 Bluenose Squadron, Combat Support, at 14 Wing, Greenwood, Nova Scotia. The ceremony was overseen by Her Honour Myra A. Freeman, Lieutenant-Governor of Nova Scotia, His Royal Highness The Prince Michael of Kent, Vice Chief of Defence, Staff Lieutenant-General G.E.C. Macdonald and Chief of the Air Staff, Lieutenant-General L.C. Campbell.

This historic squadron was formed at Tholthorpe, England, on 13 June, 1943, as a bomber unit flying Halifax Vs and then Lancasters. During World War II, the squadron flew some 2,600 combat sorties, dropped 10,575 tonnes of bombs and mines and 68 crewmembers made the ultimate sacrifice. The squadron's original complement of personnel contained a large number of Maritimers, and thus it was an obvious choice when the squadron adopted the schooner *Bluenose* as both its crest and nickname. Besides acquiring 150 individual declarations, the Bluenosers received 11 battle honours.

In addition to the Halifax and Lancaster aircraft, 434 has flown the F-86 Sabre, CF-104 Starfighter, CF-5 Freedom Fighter, C-144 Challenger and the T-33 Silver Star, the mighty Thunderbird. The tail fins of these aircraft have all born the image of *Bluenose*.

The exemplary service of 434 Bluenose Squadron has made a significant contribution to the pursuit and protection of the precious freedoms we enjoy as a democratic people. Canada shall always be in their debt. We shall never forget. In the words of Colonel G.M.A. Morey, 14 Wing Commander:

Like *Bluenose*, these schooners of the sky represent excellence, and they are true champions.

The motto of this squadron is "We Conquer in the Heights." They have certainly done that. Moreover, they have conquered our hearts.

The squadron has been disbanded three times in the past. It will be disbanded again on 15 July, 2002. However, we should keep a lookout because, I am sure, this historic unit will again be reactivated in the future.

To Lieutenant-Colonel J.R. Turner, Commanding Officer of 434 Bluenose Squadron, Combat Support, and the men and women of his crew, we say "Three Cheers!" for a job well done, and we wish the skipper and his Bluenosers the very best of health and happiness in the future.

## INTERNATIONAL TRADE

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Gerry St. Germain:** Honourable senators, British Columbia is facing an unmitigated disaster as a result of tariffs imposed on the softwood lumber industry. I am sure it is no surprise to anyone that someone like myself, who represents that region, would rise today to speak about the horror stories that are taking place within British Columbia at the present time as a result of the trade differences with the U.S.

I believe, honourable senators, now is not the time to be critical or make rash statements about our American neighbours to the south because they still are our largest and best customer. Somehow, we must find a resolution to this dilemma we are facing.

Honourable senators, the government has taken a certain position, and I believe that this issue rises above partisanship as it affects the entire country, especially the Central and Western provinces.

• (1610)

It is time for the government and this side to put partisanship aside and seek a resolution to this issue. We must think of new methods to achieve resolution because the methods that we have used to date have obviously failed.

Honourable senators, I would urge the minister, who is present in the chamber today, to present alternative suggestions to cabinet. We have made some suggestions in the past. I am not saying they are cast in stone, but it is time for us to find creative ways to deal with the horrific situation that exists on the West Coast. As an example, this new tariff imposed by the U.S. could potentially rule out the possibility of Doman Industries staying in business, a company that employs 4,000 people. That in itself creates an urgency of huge dimension for the province of British Columbia and for the whole country.

## ROUTINE PROCEEDINGS

### FOREIGN AFFAIRS

#### BUDGET—STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE—REPORT OF COMMITTEE PRESENTED

**Hon. Peter A. Stollery,** Chairman of the Standing Senate Committee on Foreign Affairs, presented the following report:

[ Senator Moore ]

Monday, March 25, 2002

The Standing Senate Committee on Foreign Affairs has the honour to present its

### TWELFTH REPORT

Your Committee was authorized by the Senate, on Thursday, March 1st, 2001, in accordance with rule 86 (1)(h), to examine and report on emerging political, social, economic and security developments in Russia and Ukraine; Canada's policy and interests in the region; and other related matters.

Pursuant to Section 2:07 of the *Procedural Guidelines for the Financial Operation of Senate Committees*, the budget submitted to the Standing Committee on Internal Economy, Budgets and Administration and the report thereon of that Committee are appended to this report.

Respectfully submitted,

PETER A. STOLLERY  
Chairman

(For text of Appendices, see today's Journals of the Senate, p. 1377.)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Stollery, report placed on the Orders of the Day for consideration at the next sitting of the Senate.

## QUESTION PERIOD

### INTERNATIONAL TRADE

#### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Gerry St. Germain:** Honourable senators, my question is for the Leader of the Government in the Senate. Further to my earlier statement, it is my understanding that it will be approximately 315 days to one year before a NAFTA application can be made in respect of the 32 per cent tariff that has been imposed on our softwood lumber. British Columbia has lost 20,000 jobs to date. Pink slips were handed out last Friday, and earlier, and that is continuing this week, to my understanding.

Has the government given some thought to a process that will provide relief? I understand that relief could be dangerous because it could be construed as a subsidy that could further exacerbate the difficult negotiations with the U.S. However, can we give any hope to British Columbians who are being so adversely affected in every community in B.C. and to other Canadians so affected across the country?



**Hon. Sharon Carstairs (Leader of the Government):** I thank the honourable senator for raising the issue in both his statement and his question. The issue of the softwood lumber tariff clearly affects many in this country, but more particularly those in the province of British Columbia. The duties announced by the Americans last Friday of 19.34 per cent in countervails and 9.67 per cent on anti-dumping, for a total of 29.01 per cent, were best expressed by the Honourable Pierre Pettigrew when he said that they were obscene. That is indeed the way many Canadians feel.

Canadians do not believe that they have been treated fairly in this particular instance; they have been let down by the most senior member of the administration, who directed that a deal be worked out by last Friday. That deal, clearly, was not worked out because of the pressure of the industry south of the border.

As to the honourable senator's specific question, the government will need to assess the situation and the impact of any action, which the honourable senator has already indicated there might be, before it would be in a position to respond.

**Senator St. Germain:** Honourable senators, as the share prices drop for our forest companies and our devalued dollar stares us head on, it really could create absolute havoc. American corporations could come here with their American dollars and convert them to Canadian dollars to purchase below wholesale price, which could further exacerbate and erode Canadian control of our forest companies. Does the honourable senator have a comment on that?

**Senator Carstairs:** Clearly, that is always of concern in the present economic circumstance. Hopefully the situation will be monitored carefully.

In terms of the overall impacts, we know that they will be severe, particularly in the province of British Columbia but not only in B.C. It leads us to wonder just how valuable the NAFTA agreement is, considering that we have won several times before similar panels. The government will, however, pursue a further NAFTA panel, as well as WTO challenges.

**Senator St. Germain:** The honourable senator speaks of the obscenity of the decision, and there is no question that the entire industry and the entire country are in shock. Is serious consideration being given to thinking "outside of the box" and possibly using an envoy to improve the status of the negotiations? When I raised this thought before, I was serious about it. During the free trade negotiations in the past, when we were part of government, I played a small role in the process and dealt with others who were involved.

• 11620 •

There were times during the negotiations when people outside of the political sphere were brought in because they could exercise a certain amount of influence that politicians could not. I ask the minister to revisit that particular suggestion. I am thinking of people like Ken Taylor, a Canadian who in the eyes of the Americans is a true hero because of his role in Iran in years past, people of that nature who could have a true impact on

the American administration and move this issue to the front burner.

**Senator Carstairs:** Honourable senators, it is very difficult to think of possible envoys higher than the Prime Minister of Canada and the President of the United States, both of whom, less than two weeks ago, made a statement in the Rose Garden that they would work together to bring about an agreement as of last Friday. Clearly, that did not happen because the industry in the United States, supported by, I understand, up to 51 senators, signed agreements that they would not come to a reasonable and rational decision on this issue.

However, I think the minister has been extremely creative and cooperative up to this point. It is the first time I have seen provincial ministers and the federal minister working as cooperatively together as they did in Washington last week. If Senator St. Germain thinks that another idea and the concept of an envoy from outside the political arena would be useful, I would be pleased to take that suggestion to the cabinet table.

[Translation]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, I would like us to start with Items Nos. 1, 2 and 3 under Bills, that is Bills C-39, C-30 and C-35, followed by Item No. 2 under Committee Reports, before returning to the order set out in the Order Paper.

[English]

### YUKON BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I mentioned on Thursday, when I took the adjournment of the debate on this matter, that I wanted to review the intervention by our colleague Senator Watt, which I have been studying. Senator Watt raises some serious constitutional questions about Bill C-39. I hope to be prepared tomorrow to speak in depth on the matter. With your permission, I move to stand the item.



**Hon. Sharon Carstairs (Leader of the Government):** I am quite prepared to stand the matter in the name of Senator Kinsella, but first I should like to put some remarks on the record.

Honourable senators, Bill C-39, the new Yukon Act, is a result of several years of consultation and negotiation by the federal government, the Yukon government and the First Nations of the Yukon.

It is important for honourable senators to note that all 14 Yukon First Nations, the Kaska Nation, the Yukon government and the federal government negotiated the Devolution Transfer Agreement which sets out terms of the transfer of land and resource management powers from the federal government to the Yukon government. The same parties also worked together on the development of Bill C-39.

The bill and the agreement incorporate the best efforts of all parties to meet the interests of all Yukoners, both Aboriginal and non-Aboriginal. Furthermore, the bill reflects the political evolution of responsible and accountable public government in the Yukon.

As honourable senators know, Bill C-39 will transfer land and resource management powers to the Yukon government. It will thus provide Yukoners with decision-making powers like those exercised by citizens in the provinces. It will further modernize the legislative framework underlying the territory's political institutions. This bill is long overdue.

I would like to take this opportunity this afternoon to address a number of the concerns that Senator Watt has raised in this chamber with respect to Bill C-39. Senator Watt raised a question as to whether Bill C-39 is in conflict with the Constitution. As much as I respect the views of my honourable colleague, in this instance I believe he is wrong. Bill C-39, taken together with the Devolution Transfer Agreement, is not inconsistent with either the Rupert's Land and North-Western Territory Order of 1870, or with section 35 of the Constitution Act, 1982.

As Senator Watt noted, the 1870 order is the subject matter of outstanding litigation. Therefore, the precise scope and legal effect of the 1870 order is not a clear and settled matter. Yet, if one assumes that the 1870 order does provide any protection for the rights of Aboriginal peoples — and that is a matter that is yet to be decided — the government's view is that the protection does not go beyond the protection provided by section 35 of the Constitution Act, 1982.

Furthermore, as honourable senators are aware, this protection is not absolute. The courts have clearly recognized that governments may take measures that can infringe upon existing Aboriginal rights or title, as long as it can be justified in accordance with the legal test established by the courts. This

way, legitimate government objectives can be reconciled with existing Aboriginal rights and title.

Bill C-39 does not by itself infringe on any Aboriginal right or title. It only provides for a transfer of administrative responsibility in relation to Crown land and natural resources from one government body to another — more specifically, from the Department of Indian Affairs and Northern Development to the Yukon government.

Senator Watt, in his comments on Bill C-39, referred to the Yukon government as a third party. Honourable senators, the Yukon government is a public government, responsible to its constituents, Aboriginal and non-Aboriginal alike. It is a government like other governments of Canada, legally bound by our Constitution.

Through this bill and the Devolution Transfer Agreement, the only thing that will change from what is the case now is that a different creature of Parliament, the Yukon government, will now be responsible for managing that land and those resources, thus giving to the Yukon what has been given to other provinces. However, the title to the land and resources will remain vested in the Crown in right of Canada. This means that, after the Yukon government assumes land and resource management responsibilities from the federal government under Bill C-39, the Yukon government will be placed in the same position as the federal government in carrying out those responsibilities. In other words, if the Yukon government takes measures which can be said to be infringing upon any Aboriginal right or title, it will have to justify that action in accordance with the legal test established by the courts in exactly the same way as the federal government is required to do.

Recognizing this, the Yukon government committed itself, in the Devolution Transfer Agreement, to involve and consult First Nations, including First Nations with outstanding land claims, to ensure that their rights and interests are properly taken into account when managing land and resources in the Yukon.

• (1630)

Honourable senators, during the negotiation process, all parties — First Nations, the Yukon government and federal government representatives — considered the idea of transferring land and resource management responsibilities to the Yukon on a piecemeal basis as outstanding land claims were settled. However, such an approach would not be practical. We can all appreciate the inefficiency, fractured management and regulatory regimes, uncertain business environment and, of course, financial and economic duplication that would be caused as a result of such an approach. Nor is such an approach necessary. Working together, the parties proceeded to develop measures to protect the interests of First Nations and particularly the interests of First Nations without settled claims. These provisions are included in the Devolution Transfer Agreement and in Bill C-39.

Honourable senators, balancing economic and other developmental benefits for Yukoners with a need to continue to find ways to complete land claims and self-government agreements is a challenge that the federal government and the Yukon government already face in carrying out land and resource management responsibilities in the Yukon. It is a challenge the Yukon government will face to a greater extent post-devolution until all remaining land claims in the Yukon are settled. In negotiating the Devolution Transfer Agreement and developing Bill C-39, the parties to the process sought creative ways to better address the challenge. As a result of these negotiations, the agreement sets out a number of provisions to safeguard the interests of First Nations to ensure that potential risks are minimized.

Under the Devolution Transfer Agreement, all lands selected under land claims negotiations in the Yukon will be interim protected by the federal government before devolution. This protection will be continued after devolution by the Yukon government for at least five years. The Yukon government has also committed to interim protect up to 120 per cent of the land quantum that might remain to be negotiated on April 1, 2003. As a result, no new interests will be created on the lands identified to form part of these future comprehensive land claims settlements.

Furthermore, honourable senators, the Devolution Transfer Agreement and Bill C-39 provide for the federal government power to take the administration and control of lands back from the Yukon government or issue prohibition orders for the purpose of settling any remaining claims, or otherwise, for the welfare of Indians and Inuit.

Overall, therefore, through the Devolution Transfer Agreement and Bill C-39, mechanisms have been designed to protect the interests of First Nations without settled claims and to put in place decision-making processes to minimize the risk of any infringement by the Yukon government of the rights of First Nations in relation to land and resources.

Honourable senators, the passage of Bill C-39 will not affect the comprehensive land claims process. The negotiation of land claims in the Yukon will continue its own course as the preferred means to achieve reconciliation with Aboriginal rights and interests. This process will continue to be a trilateral process, just as it is today, involving First Nations and both the federal and the Yukon governments.

In this context, Bill C-39 and the Devolution Trust Agreement were designed and negotiated with the active participation of First Nations. They both take into account and reflect the objectives set out in the Constitution to reconcile legitimate objectives of governments with the existence of Aboriginal rights and title.

Bill C-39 will simply put the Yukon government in the same place the federal government is in now, without affecting the negotiation of Aboriginal land claims or in any way diminishing the rights of Aboriginal people. The Yukon government will be required to carry out its new functions in accordance with all the

requirements of the Constitution, including those related to the protection of Aboriginal rights and title. Accordingly, Bill C-39 is consistent with all the protection given to Aboriginal rights and title under the Constitution, whether this protection is derived from the 1807 order or section 35 of the Constitution Act, 1982.

Honourable senators, the passage of Bill C-39 will trigger the flow of significant benefits set out in the Devolution Transfer Agreement, for all Yukoners, Aboriginal and non-Aboriginal alike. The decision-making will rest in the hands of Yukoners, where it rightfully belongs. Yukoners will decide on the nature and pace of the development of Yukon resources for the benefit of all Yukoners. The Yukon First Nations will also receive a share of the Yukon government's net fiscal benefits from resource revenues after devolution. In addition, after devolution, First Nations will benefit from continued government forest fire suppression beyond the five-year period provided for in land claim agreements and from remediation of hazardous or contaminated sites on First Nation settlement lands.

Honourable senators, Senator Watt noted the history of events leading up to where we are today. Relations between Aboriginal and non-Aboriginal people in the Yukon and, indeed in Canada overall, have left much to be desired. We all appreciate the need to learn from the mistakes made in the past and build strong partnerships in the years ahead.

Honourable senators, a major objective of both the Devolution Transfer Agreement and Bill C-39 is to further enhance constructive government-to-government relationships between First Nations government and public government in the Yukon.

As noted earlier, under the Devolution Transfer Agreement, the Yukon government has committed to consult with First Nations, particularly those First Nations that have yet to conclude their land claims, on its land and resource management policies and procedures, as a further measure to safeguard First Nations' rights and interests and to obtain the input of First Nations. The agreement also sets out Yukon government-First Nation agreements that include establishing cooperative working arrangements with First Nations in respect of developing Yukon's successor resource management legislation. The Yukon government is also committed to consulting with First Nations on any amendments to the Yukon Act that may be contemplated in the future by the federal government.

Honourable senators, the Devolution Transfer Agreement, which will come into effect when Bill C-39 is proclaimed, carefully balances the interests of all stakeholders with particular attention to the rights and interests of First Nations, especially those First Nations that have yet to conclude their land claims and self-government agreements. Bill C-39 is forward looking legislation to which the Yukoners have aspired for a long time. It is fully consistent with the Constitution of Canada. It supports our common objective of building a stronger, more prosperous nation and to further enhance the quality of life of all Canadians.



I urge all honourable senators to support this legislation.

**The Hon. the Speaker:** Senator Kinsella, do you wish to move adjournment?

**Senator Kinsella:** Yes, however let me first thank the Honourable Leader of the Government for laying this extra information on the table. It is great to have the machinery of the government behind one to get this research.

I listened carefully, I shall read the speech carefully, and I hope to rise tomorrow.

On motion of Senator Kinsella, debate adjourned.

## COURTS ADMINISTRATION SERVICE BILL

### THIRD READING—DEBATE ADJOURNED

**Hon. John G. Bryden** moved the third reading of Bill C-30, to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

He said: Honourable senators, I want to say a few words about this bill at third reading. It is not my intention to repeat what I said at second reading. However, there are some matters that have come to light as a result of committee hearings and discussions that may be helpful as honourable senators consider this bill at third reading.

I will provide a quick synopsis of the bill. The bill really deals with three matters. An administrative service would be established to provide the basic administrative functioning for the four courts — the Federal Court of Appeal, the Federal Court, the Tax Court and Court Martial Appeal Court. I will return to that.

The second matter deals with the separation of the Federal Court into two distinct courts. Currently, there is a Federal Court with a trial division and an appeal division. This bill would change the administrative organization of the Federal Court to be similar to that of the superior courts of most provinces. There would be the Federal Court, trial division and the Federal Court, appeal division.

Finally, and I will come back to this in more detail, the bill confers Superior Court status on the judges of the Tax Court in Canada.

• [164]

As we considered the bill in committee — indeed, as we investigated it — it became clear that this bill has been in progress and under development for a significant period of time. Part of this was as a result of a report by the Auditor General. At

the request of the Minister of Justice, the Auditor General reported in 1997 that there could be considerable efficiencies and also administrative facility that would occur by having one administrative service apply to all of these basically specialized federal courts.

At second reading, the bill was sent to the Standing Senate Committee on Legal and Constitutional Affairs. The bill had a very thorough airing in that committee.

We were fortunate — and I want to put this on the record — that the chief spokesperson for the Department of Justice was Judith Bellis, who is the Senior Counsel at the Judicial Affairs Unit. In the minds of all of the committee members, she did an outstanding job. It was obvious that she knew this file very thoroughly. She was prepared to answer any and every question that came forward, and she did so succinctly and in a manner that moved our deliberations along. As someone who has, at times, been quick to criticize the officials who appear before our committees, I wanted to put this on the record.

Though some of the members of the committee may not agree with some of her positions, I do not think any one of us would have faulted her preparation and her contribution to our deliberations.

I should also like to say that the members of the committee, primarily Senators Beaudoin and Rivest, and I believe Senator Andreychuk was there for part of the time as well, gave this bill careful consideration. These senators asked very deliberate and carefully honed questions that were on point, which may be why we received direct answers.

As a matter of fact, honourable senators, we actually stopped asking questions before the Chair told us to, because, to the best of my recollection, the answers had been given. The questions that we had asked had been answered as completely as possible.

In the development of the bill, a great deal of consultation took place between the courts and the Department of Justice. One thing that concerned everyone in committee, and I am sure would concern everyone here, is the matter of an independent judiciary. Whenever there is change around the administration of a court or the administration of justice, one must always ask: Have we preserved the independence of the judiciary in attempting to make our system work more efficiently? There is no question that, while the independence of the judiciary takes precedence, the efficient operation of our court system is important to the provision of equal and timely justice to all Canadians.

The independence of the judiciary comes from two sources. In their judicial capacity, the judges must be totally free of any bias or any influence, whether it relates to their working conditions, or their pay conditions, or any matter where someone might appear to have influence or authority on their careers. The judicial decision making must be totally free of any interference. There is no question about that because it is not discussed in this bill at all.



The other way that judicial independence can be affected is if the administration of the courts in some way interferes with the ability of the judiciary to make timely and independent decisions for whatever reason.

We need to understand that in our parliamentary system of democracy and in all of our courts, including the Supreme Court of Canada, the executive, in reporting to Parliament, must maintain the right of some oversight in relation to the expenditures of funds and in the husbanding of the public purse. There are times when there may be so-called grey areas, where perhaps further discussion is needed.

Notwithstanding the above, it is our understanding from discussions and from replies to questions we asked in committee that a great deal of effort was made to bring about, in Bill C-30, a balance that would not only protect the independence of our system and our judges but also preserve the right of Parliament to ensure that public funds, taxpayers' money, is spent in the manner it was intended to be spent in relation to the administration of justice.

There is one specific area on which we spent a great deal of time in committee. There is one other that had been raised before and since. I should like to address the second matter first, that is, the question of changing the status of judges of the Tax Court to that of Superior Court justices.

For those of you who are not involved in that particular arena — and some of us try to avoid being involved too closely with it in some instances — let me give you some background. The only judges that adjudicate on any legislation that is in the federal jurisdiction that are not classified as Superior Court judges are those in the Tax Court. This bill proposed to bring the judges of the Tax Court — who have the same types of qualification and require the same independence and support as any of the other Superior Court judges — to the same status and the same position as the judges of Superior Court in our provinces.

Some of this comes from a question that was asked I believe by Senator Murray at the beginning and then referred to by some people on our side privately. The change is intended to put the judges of the Tax Court on an equal status and equal footing with the judges of the Federal Court Trial Division for purposes of their ranking. It has nothing to do with the amount of money that is spent. They are all paid at the same level as it is. The terminology would then be the same. This is being done to promote a cooperative and collaborative approach to the consolidation of the services, the shared facilities, that were identified by the Auditor General.

• 1650 •

This proposed legislation will not involve any change in the jurisdiction of the Tax Court, nor will it increase costs, since the members of the Tax Court are currently compensated at the same level as Superior Court judges.

It is worth noting that with the amalgamation of district and county courts with superior courts across Canada, the Tax Court is composed of the sole remaining federally-appointed judges without Superior Court status.

I hope that answers the question as to why we are proceeding in this fashion. This proposed legislation is an attempt to place judges on the same level from the point of view of their status in dealing with each other.

Of more concern to members of the committee was the independence of the judiciary and the question of the appointment, reappointment and removal from appointment of the chief administrator.

Through Bill C-30, the chief administrator will be appointed by the Governor in Council. The appointment is at pleasure for up to five years. The appointment may be renewed and there is no limit on the renewal. The chief administrator may either be removed or not reappointed. The significant part of that is that the appointment is made in consultation with the chief justices of each of the courts. That would apply not only to the appointments but also to any reappointments or any removal of a chief administrator.

The division of authority within the realm of the sittings of the courts or the assignment of judges to courts, those normal judicial independence decisions are made finally by the chief justices of the appropriate court.

The chief administrator ensures that there is a courtroom, in general, that in the summertime it is air-conditioned and in the winter it is heated.

There is a significant difference between administering the courts — that is done by the judges and the Chief Justice — and what the chief administrator does.

The final decision, even in the area that is exclusively under the act and is ordinarily and exclusively within the realm of the chief administrator, can be superseded by any chief justice. That is what finally put to rest the concerns in the minds of many people. Senator Moore used a metaphor from the sport of curling; he said, "The Chief Justice has the hammer." The Chief Justice does have the hammer. The Chief Justice, under this proposed legislation, can direct in writing the chief administrative officer to take an action, even in regard to one that might be within the exclusive jurisdiction of the chief administrator. Therefore, the final decision of the administration of the courts, if there is any problem, is handled at the Chief Justice level and the direction can come from there. In ordinary circumstances, that is highly unlikely. Most of the time matters will be worked out because there must be cooperation in doing these things.

The model that will be put in place through this proposed legislation has been developed over a long period of time, through a great deal of discussion and a great deal of effort, to try to give it balance.

Australia is the only country with a functioning model comparable to this proposed legislation. Australia has had a similar system for a number of years. It is working well and they are satisfied with their system.

With all of the give and take within the committee and the exhaustive questioning of witnesses, when we proceeded to clause-by-clause consideration of this bill, the proposed legislation passed unanimously in committee, with no abstentions.

I ask honourable senators to give their support to this bill at the appropriate time.

On motion of Senator Beaudoin, debate adjourned.

### THE ESTIMATES, 2001-02

#### REPORT OF NATIONAL FINANCE COMMITTEE ON SUPPLEMENTARY ESTIMATES (B) ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Watt, for the adoption of the eleventh report of the Standing Senate Committee on National Finance (*Supplementary Estimates (B) 2001-02*), presented in the Senate on March 14, 2002.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I wish to touch on two matters that are mentioned in the report before us. The first has to do with the long saga of the Sustainable Development Fund. I will not go into the background of this matter; it has been before Parliament for some two years now.

Our own Standing Senate Committee on Energy, the Environment and Natural Resources called the way the money was advanced by Treasury Board for an activity that had yet to be approved by Parliament an affront to Parliament. The Auditor General, while feeling the process was legal, also felt it was entirely unacceptable. When the Supplementary Estimates (A) were before the other place, the Speaker of the House of Commons ruled that the request for the reimbursement of the funds from the two departments to Treasury Board was done in a way that was unacceptable.

This entire saga has been one of mistakes, either voluntary or accidental. Unfortunately, they are mistakes that the government has yet to accept and acknowledge having been of its own doing, which only makes me believe that the government did so purposely and with disdain for Parliament.

The government did not make the corrections in Supplementary Estimates (A), as was the assumption all along, following the ruling of the Speaker of the other place. The government has made the corrections in Supplementary Estimates (B) that are before us today, via the report of the

Standing Senate Committee on National Finance. This means that when we voted to approve Bill C-45, which contained the Supplementary Estimates (A), we voted amounts of money that should not have been there.

Honourable senators, this is more than just a technical error. This is a voluntary disdain by the Government of Canada, vis-à-vis Parliament, as to its ultimate authority over the authorization of public funds.

•(1700)

The government asked that we vote Supplementary Estimates (A) with the errors it contains, saying that it would take care of them in Supplementary Estimates (B). That is not the way in which the parliamentary system is supposed to operate.

Let me quote what the Auditor General said about the whole process. In her report of last September, she said, in part, the following:

I certainly hope that in the rest of my tenure as Auditor General of Canada, I will not see another such series of events carried out to achieve a desired accounting result.

Finally, on this topic, I also want to quote a remark from the Commissioner of the Environment and Sustainable Development, who is under the authority of the Auditor General:

Our Office is currently auditing the governing frameworks that the sponsoring departments have put in place for these four environmental funds...

That report will come out some time next month.

I am also pleased to see that the Standing Senate Committee on National Finance will be doing a study on the increasing discretion that Treasury Board is giving itself under government direction to authorize the release of funds for activities that have not been approved by Parliament. That is not to say that the activities are not valid or would not be supported. However, the amounts are voted and authorized, the activity is started, and then Parliament, in due course, is asked to authorize them.

That leads me to the second matter in the report, which has to do with the Pierre Elliott Trudeau Foundation. I will comment neither on the individual after whom the foundation is named nor on the purpose of the foundation. That has nothing to do with my remarks. However, the whole way in which the government has treated the foundation is just a continuation of it ignoring Parliament's involvement in the expenditure of public funds.

The foundation was authorized on February 7, 2001, and it is a private foundation. I think that because of the criticism made of the government for creating foundations through parliamentary authorization and putting in funds outside the authority of Parliament, it decided to encourage a private group to form a non-profit private corporation that will not have to report to Parliament at all once it gets the public funds.



This foundation was created by private individuals under the appropriate legislation. It is a private, non-profit foundation and it reports to no one except the Department of Industry, where it files routine reports.

The government announced, not long ago, that it is going to donate \$125 million to this foundation, admittedly for very valid reasons, but without any input by Parliament whatsoever. This foundation has the government's fingerprints all over it. In his statement announcing the grant, the Minister of Industry said:

To do so, we have enlisted the participation of a remarkable group of people.

"We" means "the government."

At the beginning of his comments made on February 20, 2002, Minister Rock said:

In January of last year, the Prime Minister told the House that the Government of Canada would create a legacy to honour the memory of former Prime Minister Pierre Elliott Trudeau.

Just a few days later, this foundation was created.

We asked the law firm responsible for the incorporation for a copy of the bylaws of the corporation, which are quite standard. However, in the covering letter that accompanies the bylaws, we can read the following:

We —

— meaning the foundation —

— are presently in the process of finalising and implementing the governance structure of the Foundation to reflect the funding pledge from the Government of Canada.

This is unheard of. Here is a private foundation, a tool of the government, poorly camouflaged, created by the government, encouraged by the government, instead of what should have happened, which would have been a much better honour to Pierre Elliott Trudeau, that is, Parliament creating a foundation, Parliament having authority over the funds and Parliament authorizing the funds. Instead, \$125 million will go into this foundation and we will never hear what happens to it. There will, of course, be releases saying that various students have received various scholarships. There are other tools for scholarships in Canada. There is the Millennium Scholarship Foundation and the Canada Council. Why not give well-established authorities created by Parliament the right to disburse these funds? I think the memory of Pierre Elliott Trudeau would have been better honoured by doing it this way. This is not the way that he would appreciate having it done.

What authority do you think the minister found to convince Treasury Board that he could unilaterally have these funds put in Supplementary Estimates (B) without Parliament's authority?

Look in Supplementary Estimates (B) under what is called "Micro-Economic Policy." The Main Estimates, 2002-03 for the Department of Industry say the following about micro-economic policy:

This Business Line sets the overall priorities and direction for the department's micro-economic agenda in the "four pillars" of marketplace climate, trade, technology and infrastructure, outlined in the government's framework document "Building a More Innovative Economy (BMIE)" and consistent with the Speech from the Throne priorities. The major challenge in developing the micro-economic policy agenda will be to identify the key emerging issues, to marshal the analytical evidence for the appropriate policy responses and engage the commitment of a diverse group of departments and agencies inside and outside the Industry Portfolio in implementing them. The challenge must also include integrating a sustainable development strategy and sustainable development concepts into the work of the department.

Honourable senators, it is under this heading that these monies were authorized by Treasury Board to be shifted over to a foundation intended to give scholarships in honour of a former prime minister. What relation micro-economic policy has to the purpose of the fund is beyond me. If anyone in this room can help me out on that, I would look forward to it.

Finally, I said earlier that the bylaws of the foundation would be altered to comply with the government's conditions — not Parliament's conditions — for the transfer of funds. When Treasury Board officials were at the Finance Committee meeting, the following question was asked: What are these conditions? Mr. Neville of the Treasury Board, a very qualified and straightforward individual, in response to Senator Banks, I believe, said the following:

As to your second question, concerning the funding agreement, I am not certain that we are at liberty to disclose that, even after Treasury Board has approved it. I believe that is still the confidence of the Crown. I am not sure that we could release that information.

Here we are, under a questionable rubric entitled "Micro-Economic Policy" hidden away in Supplementary Estimates (B), after a press release of the Minister of Industry, being asked to authorize the disbursement of \$125 million, the conditions of which we are not even entitled to know. Only the Crown and the foundation directors can know. Parliament, the main purpose of which historically has been power over the purse, is not entitled to know.

•(1710)

I will leave it at that, honourable senators, because there are so many other examples of the government taking upon itself more and more the authority to spend funds using Treasury Board approvals, which, some of us feel, is stretching the interpretation of the act under which they are being authorized.



The Auditor General is on to it, and we will hear more from her. Senator Murray's committee will look into Treasury Board authorizations, and I hope the other place, which seems to be rather casual about its ultimate responsibilities, will get on to it also.

It is ironic that it is the nominated house that brings up in this place its concern about repeated offences to parliamentary authority when it comes to the disbursement of funds, and when one reads the Hansard of the other place, one sees no mention of it at all except a casual, "What else can we do?" What we can do in this place, via the Standing Senate Committee on National Finance, is get on to it with a strong report supporting a return to Parliament of its main responsibility, being the ultimate authority over the disbursement of public funds.

**The Hon. the Speaker:** Honourable senators, I must advise that I am giving the floor to Senator Cools. She is the mover of the motion to adopt the report. If she speaks now, her speech will have the effect of closing the debate.

**Hon. Anne C. Cools:** Honourable senators, any senator is welcome to speak. I will be happy to defer.

I should like to thank Senator Lynch-Staunton for his remarks in respect of two important items, one being the Pierre Elliott Trudeau Foundation, which involves a grant of some \$125 million, and the second being the Canadian Foundation for Sustainable Technology Development. From what I can see, Senator Lynch-Staunton has referred extensively to the debates in this chamber in December, when we adopted Supplementary Estimates (A).

Honourable senators, I will deal with this particular question more extensively in my upcoming speech on the Supplementary Estimates (B) and the supply bill itself. In anticipation of that discussion, I wish to note that in his remarks Senator Lynch-Staunton cited the Auditor General, Ms Sheila Fraser, in the Public Accounts of Canada 2001, Volume I, as follows:

I certainly hope that in the rest of my tenure as Auditor General of Canada, I will not see another such series of events carried out to achieve a desired accounting result.

Those are extremely damning words, honourable senators, and I propose to deal with them, particularly when one considers that the series of events to which she was referring have been dealt with, corrected and handled adequately in Supplementary Estimates (B) currently before us. I hasten to add that I shall take issue, as I have taken issue, with those very words of the Auditor General, and we shall develop that as time goes on.

If one were to look at the same Public Accounts of Canada 2001, Volume I, as produced last September, one would see that the Auditor General spends quite a few pages on that particular subject matter and also on a question of the funding of

foundations in general. I can say, with a reasonable amount of accuracy, that the Auditor General simply does not like the fact that the Government of Canada has been using these foundations as an instrument of program, resources and services delivery. I would submit to honourable senators that those are policy questions on which the Auditor General and the government differ.

The essential point I wish to make in response to Senator Lynch-Staunton is that a concern was raised in the House of Commons last November on a point order. The Commons Speaker, Peter Milliken, addressed the question and proceeded to say that Supplementary Estimates (A) were quite in order and that they should proceed before the chamber. They proceeded and they were adopted. When the Commons Speaker gave his ruling, he said that the matter could be corrected by the Supplementary Estimates process, which obviously meant Supplementary Estimates (B).

Honourable senators, the matter has been corrected. Senator Lynch-Staunton attended the National Finance Committee last week when the Deputy Comptroller General, Mr. Neville, explained the correction and how the concerns of Speaker Milliken had been satisfied.

Clearly, honourable senators, Senator Lynch-Staunton and I have a different view of the facts, but the government did make the changes and corrections to Supplementary Estimates (B). The House of Commons accepted them, and so has the Senate committee.

Honourable senators, I shall develop this more extensively when I speak on Bill C-51 in a few minutes.

**Senator Lynch-Staunton:** Honourable senators, I rise on a point of order. I should have raised it before. The honourable senator said that I have slighted the Auditor General. I did not slight anyone in my remarks. I quoted the Auditor General.

**Senator Cools:** I do not believe I said "slighted." I do not think the honourable senator slighted the Auditor General. I think he is her greatest supporter.

**Senator Lynch-Staunton:** The honourable senator has a short memory, a selective memory, as my mother would say.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

It was moved by the Honourable Senator Cools, seconded by the Honourable Senator Watt, that the eleventh report of the Standing Senate Committee on National Finance be adopted now. Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

**BUDGET IMPLEMENTATION BILL, 2001**

## REPORT OF COMMITTEE

Leave having been given to revert to Reports of Committees:

**Hon. Lowell Murray**, Chair of the Standing Senate Committee on National Finance, presented the following report:

Monday, March 25, 2002

The Standing Senate Committee on National Finance has the honour to present its

## FIFTEENTH REPORT

Your Committee, to which was referred Bill C-49, *An Act to implement certain provisions of the budget tabled in Parliament on December 10, 2001*, has, in obedience to the Order of Reference of Wednesday, March 20, 2002, examined the said Bill and now reports the same without amendment.

Respectfully submitted,

LOWELL MURRAY  
Chair

**The Hon. the Speaker pro tempore:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Carstairs, bill placed on the orders of the day for consideration at the next sitting of the Senate.

**APPROPRIATION BILL NO. 4, 2001-02**

## SECOND READING

**Hon. Anne C. Cools** moved the second reading of Bill C-51, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002.

She said: Honourable senators, I rise today to speak to the second reading of Bill C-51, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002, which as we know is in a very few days.

Bill C-51 is known as Appropriation Act No. 4, 2001-02, the final supply bill for this fiscal year ending March 31, 2002. Bill C-51 provides for the release of the total of the amounts set out in Supplementary Estimates (B) 2001-02, being \$2.8 billion. These Supplementary Estimates (B) are the final Supplementary Estimates for the fiscal year that ends in a few days on March 31, 2002. Supplementary Estimates (B) were introduced in the Senate on March 5, 2002, and on March 6 were referred to the Standing Senate Committee on National Finance. Treasury Board Secretariat officials appeared before the Senate National Finance Committee on March 6. The officials were Mr. Richard Neville,

Deputy Comptroller General, and Mr. David Bickerton, Executive Director, Expenditure Operations and Estimates Directorate. The National Finance Committee reported to the Senate on Supplementary Estimates (B) on March 14, 2002, in its Eleventh Report. The Senate adopted that Eleventh Report, this day, a few minutes ago.

• (1720)

Honourable senators, the 2001-02 Supplementary Estimates (B) seek Parliament's approval to spend \$2.8 billion on expenditures — that is, voted appropriations — for 2001-02 that were provided for within the \$169.7 billion in overall planned spending for 2001-02, as set out in Minister of Finance Paul Martin's December 2001 budget. These estimates were not included in the 2001-02 Main Estimates. These Supplementary Estimates (B) provide information to Parliament about a net decrease of \$573.4 million in changes to projected statutory spending from amounts forecast in the Main Estimates earlier this fiscal year.

Honourable senators, I shall provide senators with an overview of the contents of Supplementary Estimates (B) and its accompanying bill, Bill C-51. Some of the more important items affecting more than one organization for which approval is required include the following: \$841.6 million in new funding dedicated to public security, combating terrorism and ensuring the economic security of Canadians in the wake of the September 11 terrorist attacks; \$392 million for compensation for collective agreements; \$215 million for increased funding for other international assistance, such as \$100 million to the Canadian International Development Agency for humanitarian and transition assistance in Afghanistan and surrounding countries, \$98.9 million to the Canadian International Development Agency for payments to the international multilateral institutions, and \$16.1 million to the Department of Finance for payments to the International Monetary Fund's Poverty Reduction and Growth Facility; and \$125 million to Environment Canada and Natural Resources Canada for grants to the Canadian Federation of Municipalities.

Honourable senators, in addition, there is also a number of items affecting single organizations. These include the following: \$207.7 million to the Department of National Defence for increased funding to cover the provision of health care services and recruitment, retention and training activities for the Canadian Forces; \$199.9 million to the Social Sciences and Humanities Research Council for indirect costs of University Research; \$273.5 million to Department of Industry for additional grant requirements, such as \$125 million for the Pierre Elliott Trudeau Foundation, \$110 million for CANARIE for CA\*net4 Internet Broadband, \$25 million for the Canada Institute for Advanced Research, \$7.5 million for the Canadian Youth Business Foundation, and \$6 million to Shad International; \$95 million to the Department of Health Canada for additional funding for the Canadian Institute of Health Information; \$61.6 million to the Department of Veterans Affairs for increased requirements for Disability Pensions.



On the non-budgetary side, there is a \$20 million increase to the working capital advance account for National Defence.

Honourable senators, the above items represent \$2.43 billion of the \$2.78 billion for which parliamentary approval is sought. The \$347.9 million balance is spread among a number of other departments and agencies, the specific details of which are included in the Supplementary Estimates. With respect to changes in projected statutory spending, there is a \$573.5 million decrease to spending previously authorized by Parliament. The updates shown in these Supplementary Estimates are provided for information purposes only. The major statutory items to which there are changes in the projected spending amounts are — and I list the increases first and then the decreases. The increases are as follows: an increase of \$1.9 billion in Employment Insurance benefit payments to recipients and an increase of \$127 million to Human Resources Development Canada for a projected increase in Income Security Payments.

The decreases are: a decrease of \$2.5 billion to the Department of Finance for a projected decrease in public debt charges, a decrease of \$137 million to Human Resources Development Canada for Canada Education Savings Grants and a decrease of \$60 million to Finance for a projected decrease in transfer payments to provincial and territorial governments. Finally, on the non-budgetary side, there is a decrease of \$217 million to Human Resources Development Canada for loans disbursed under the Canada Student Financial Assistance Act.

Honourable senators, there is one last item I wish to deal with, namely, the matter that was raised a while ago by the Honourable Senator Lynch-Staunton. I propose to give honourable senators more detail and to expand my explanation a bit so that we may, perhaps, consider this issue settled. In particular here, I am speaking of the matter of the Treasury Board's correction in these Supplementary Estimates to conform with and to honour Speaker Milliken's ruling in the other place on November 22, 2001. I remind honourable senators that these facts have arisen from two grants of \$25 million each to the Canada Sustainable Development Foundation, to which Senator Lynch-Staunton had referred in his remarks.

Honourable senators, at the National Finance Committee meeting on March 6, 2002, Mr. Richard Neville, Deputy Comptroller General, went to great pains to explain the matter. Further, our eleventh report — which we just adopted and which is recorded in Senate Journals, March 14, 2002, page 1301 — provides a good account of both Mr. Neville's and the government's corrective action. Speaker Milliken's November 22, 2001 ruling on a point of order on the Supplementary Estimates (A), raised on November 1, 2001 by John Williams, Member of Parliament for St. Albert, ruled that he, the Speaker, did not have an issue with the grant items in Supplementary Estimates (A), ruling that they applied specifically to the foundation established pursuant to the passage of Bill-C 4 and that these grant items were valid items. He ruled therefore that the Supplementary Estimates (A) for 2001-02 could proceed for debate and adoption by the other place, saying that there was ample time for the government to make corrective

action in the supplementary estimates process. This is a statement about which Senator Lynch-Staunton seems to assume that Speaker Milliken meant Supplementary Estimates (A). I shall read the Speaker's statements clearly to all of us. The Speaker could not have been speaking about Supplementary Estimates (A) because he ruled that they could proceed for debate. He must have been speaking about a future supplementary estimates, the one that we now have before us, namely, Supplementary Estimates (B). Honourable senators, I should like to place on the record Speaker Milliken's exact words. His words are found at page 7455 of *Debates of the House of Commons*, November 22, 2001. Speaker Milliken said:

...does not consider that the notes in the supplementary estimates (A) concerning the disbursement of these earlier monies are sufficient to be considered as a request for approval of those grants. In other words, the approval that is being sought in supplementary estimates (A) cannot be deemed to include tacit approval for the earlier \$50 million grant.

However, as there remains ample time for the government to take corrective action by making the appropriate request of parliament through the supplementary estimates process, the Chair need not comment further at this time. The supplementary estimates (A) for 2001-2002 can therefore proceed.

Honourable senators, that is what Speaker Milliken said. I am not sure that Senator Lynch-Staunton fully understands what was involved and what was intended in that ruling.

•(1730)

Honourable senators, if we could look to Supplementary Estimates (A) 2001-02, we would discover that there are two entries under two departments. These entries are found in Supplementary Estimates (A) pages 58 and 115. The departments in question are the Department of the Environment and the Department of Natural Resources. If one were to go to the items, one would see, under Vote 10, that there is a grant of \$50 million to the Foundation for Sustainable Development Technology. If one were to turn the page to the Department of Natural Resources, one would see again, under Vote 10, an item of \$50 million to the Foundation for Sustainable Development Technology.

It is important to understand that Speaker Milliken was in actual fact referring to a note at the bottom of both pages. Those notes read as follows:

Funds in the amount of \$25,000,000 were advanced from the Treasury Board Contingencies Vote to provide temporary funding for this Program.

Speaker Milliken is saying, essentially, that those footnotes cannot be adequate requests to Parliament for authority to spend money and that, in point of fact, those amounts of money were deserving of their own lines as individually articulated grant items.



Honourable senators, the government has made the necessary correction in the Supplementary Estimates (B). A look at the blue book reveals the correction. If we were to look at page 62 of Supplementary Estimates (B), under the Department of Environment, there is a grant item to the Foundation for Sustainable Development Technology in Canada for \$25 million. At page 112, under the Department of Natural Resources, there is another \$25 million grant item to the same foundation. These pages show that both of these grant items are footnoted as follows:

Funds in the amount of \$25,000,000 were advanced from the Treasury Board Contingencies Vote to provide temporary funding for this Program. The inclusion of this item is in response to the ruling of the Speaker of the House of Commons on November 22, 2001.

Clearly, honourable senators, the necessary and vital corrective action has been taken. I am of the view that this action fully addresses the original point of order in Speaker Milliken's ruling; further, it satisfies the concerns raised by certain honourable senators during our debate here on the Supplementary Estimates (A) last December 2001.

Honourable senators, I turn now to the government's request for parliamentary authority to confirm the original \$50 million advanced to the original not-for-profit private cooperation under the interim authority that exists under Treasury Board Contingencies Vote 5, known as TB Vote 5. As Speaker Milliken said in his ruling, this issue has now been addressed in these Supplementary Estimates (B). I should like to assure honourable senators of the following, specifically, that pending adoption and passage of the final Supplementary Estimates (B), the bill now before us, the government has not used current appropriations to reimburse TB Vote 5 for the interim \$50 million advance to the original not-for-profit corporation.

I further assure honourable senators that consistent with the usual practice and use of interim authority provided by Treasury Board Vote 5, the government is seeking Parliament's approval of two grant items in the final Supplementary Estimates (B) for the fiscal year ending March 31, 2002, for Environment Canada and Natural Resources Canada, to authorize a \$50 million grant to the original not-for-profit private corporation, corresponding to the funds advanced from Treasury Board Vote 5. Again, I assure that Parliament's approval is also being sought to use \$50 million of the \$100 million to cover the costs associated with these grant items, specifically the \$50-million advance from Treasury Board Vote 5. The effect of this is to leave the total appropriated amount for these items for this fiscal year at the \$100 million, as originally announced in the 2000 budget. I emphasize, honourable senators, that no additional funds are required, as the funds will be taken from those previously approved by this Senate in Supplementary Estimates (A) last December 2001.

Honourable senators, the matter has been satisfied. The Treasury Board officials went to great lengths to explain the

steps they took to make the correction. I thought it was an act of great deference to the Speaker of the House of Commons. I hope that this has satisfied Senator Lynch-Staunton.

I understand that he disagrees with government policy on the question of the government's use of foundations for public policy purposes. However, I would stress that that is a public policy disagreement. That in no way or in any form should be translated to mean that somehow or the other the government is acting improperly or bordering on lack of probity. The Auditor General was not suggesting that anything was illegal. In no way should it be suggested or offered in this chamber that the government is acting improperly or with any lack of probity. I take strong objection to that suggestion.

Honourable senators, the Auditor General of Canada has a sharp policy disagreement with the government. When that disagreement is coming forth and sounds to be under audit consideration, it takes on a sense that is really not the reality. What is at play here, as with Senator Lynch-Staunton, is a difference on policy.

I am concerned that the Auditor General has adopted this position of disagreeing with the government on a matter of public policy. I deeply regret her statement, cited by Senator Lynch-Staunton and found at page 138 of the Public Accounts of Canada, where she said:

I certainly hope that in the rest of my tenure as Auditor General of Canada, I will not see another such series of events carried out to achieve a desired accounting result.

That brings us to a very important question that I would like to share with Senator Lynch-Staunton. The Auditor General of Canada is a servant of the House of Commons. The Auditor General is not a servant of the Senate of Canada. It is a point not known by many here and not appreciated. Perhaps, as we go forward on these issues, we could begin to clarify that point again because it should be very clear that the focus of the Auditor General's work is as a servant of the House of Commons.

I come now, honourable senators, to the very last point. In a way, I am pleased that Senator Lynch-Staunton has raised these issues. It may be time for us to have a full-fledged debate on this whole question, and perhaps we should bring into the debate the role of the Auditor General.

I come now to Senator Lynch-Staunton's last point on the Pierre Elliott Trudeau Foundation. It is not a government foundation. It is a private foundation to facilitate and move monies into the hands of students who wish to study in very accomplished and developed ways. To that extent I laud it. There is absolutely nothing wrong with what the government is doing, and I would encourage Senator Lynch-Staunton to re-examine his position and find his way to supporting what is undoubtedly a very good and excellent achievement intended to advance the matter of study and scholarship in this country.

● (1740)

Honourable senators, I know these issues are difficult and complex, but we must remember the questions that Senator Lynch-Staunton raised. Even though he found support for them in the Auditor General of Canada, he has not found much support for them in the House of Commons. We must remember that the Auditor General is a servant of the House of Commons, which we shall expand on at a later time.

I thank honourable senators for their attention on this intricate, involved and complex matter.

**Hon. Lowell Murray:** Would the honourable senator permit two questions?

**The Hon. the Speaker *pro tempore*:** Will you take questions, Senator Cools?

**Senator Cools:** Yes.

**Senator Murray:** Will she agree with me that what she is pleased to call a policy disagreement between the Auditor General and the government really involves the defence by the Auditor General of the traditional prerogatives of Parliament, which are being disdained by the government?

My second question, with regard to the Trudeau foundation, is to ask whether she knows if, in addition to the \$125 million of public money that is being given to the foundation, it is intended by the foundation to raise an equal or greater amount from the private sector?

**Senator Cools:** I do not know what the intention of the foundation is. However, I do know that one of the reasons the government has recently began to utilize foundations as a vehicle or instrument is precisely because foundations have a large amount of flexibility and, in this instance, one such flexibility is to receive money from the private sector. I do not have much information on the foundation itself, but I would be happy to find out more.

There is a huge debate between the Auditor General and the Treasury Board and government on the use of these foundations, and certain members of this chamber have chosen to take up the cause of the Auditor General as opposed to the cause of the government. There is very sharp disagreement, and I invite all honourable senators to begin to read and study this issue, to be better informed in debate.

Regarding the honourable senator's question about the government, I do not believe that the government is disdaining Parliament at all. In the instance of the issue, which has just been corrected and explained by Mr. Neville and his colleagues, I honestly think it was an oversight. I do not believe there is any violation of Parliament, and these gentlemen and ladies quickly responded to the Speaker's ruling and made the necessary correction.

[ Senator Cools ]

However, the real concern here that we have to deal with is, whenever government mistakes, oversights or errors are articulated as wrong under the rubric of audit, it automatically instils fear and terror into people's hearts. After all, audits speak to the issue of morality, honesty and dishonesty. I want to make it my duty here to say that, yes, there is a public policy issue at stake and, yes, we should debate it and take a position on it. I think the position we adopt should come after some profound and detailed study, rather than being a knee-jerk response to an Auditor General's statement. That is my point.

**Hon. David Tkachuk:** I move the adjournment of the debate.

**The Hon. the Speaker *pro tempore*:** Senator Cools, Senator Tkachuk moved adjournment of the debate.

**Senator Cools:** I am aware of that.

**Senator Corbin:** She closed the debate.

**Senator Tkachuk:** I just moved the adjournment of the debate.

**The Hon. the Speaker *pro tempore*:** It is moved by Senator Tkachuk, seconded by Senator Nolin, that further debate be adjourned until the next sitting.

**Hon. Lorna Milne:** Point of order. I believe that Senator Cools' intervention was her second time to speak on this bill, so we should now call the question on the bill itself.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** That was never put to us.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question on Senator Tkachuk's motion to adjourn the debate?

**Hon. Senators:** Yes.

**The Hon. the Speaker *pro tempore*:** It was moved by Senator Tkachuk, seconded by Senator Nolin, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**The Hon. the Speaker *pro tempore*:** Those in favour of the motion will please say "yea."

**Some Hon. Senators:** Yea.

**The Hon. the Speaker *pro tempore*:** Those opposed to the motion will please say "nay."

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the "nays" have it.



It was moved by Senator Cools, seconded by Senator Watt, that this bill be read the second time. Is it your pleasure, honourable senators, to adopt the motion?

**Senator Kinsella:** On a point of order. Honourable senators, I do not recall whether or not the Chair put this matter to the Senate as required by the rules.

**Senator Murray:** Yes, he did.

**Senator Kinsella:** Thank you.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

Motion agreed to and bill read second time.

**The Hon. the Speaker *pro tempore*:** When shall this bill be read the third time?

On motion of Senator Cools, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## APPROPRIATION BILL NO. 1, 2002-03

### SECOND READING

**Hon. Anne C. Cools** moved the second reading of Bill C-52, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003.

She said: Honourable senators, I rise today to speak to second reading of Bill C-52. Bill C-52 is also known as the Appropriation Act No. 1, 2002-03. It provides for the release of interim supply for the 2002-03 Main Estimates for a total of \$16.908 billion.

•(1750)

The Main Estimates were introduced in the Senate on March 5, 2002. On March 6, they were referred to the Standing Senate Committee on National Finance for examination. On March 12, the Standing Senate Committee on National Finance heard from Treasury Board Secretariat officials David Bickerton, Executive Director, Expenditure Operations and Estimates, and Laura Danagher, Senior Director of Expenditure Operations. On March 19, the committee presented an interim report to the Senate, its thirteenth report. The Senate adopted that report on March 21, a few days ago.

Honourable senators, the 2002-03 Main Estimates are for a total of \$170.3 billion. This is an increase of \$5.2 billion, which is an increase of 3.1 per cent over last year's 2001-02 Main Estimates. The 2002-03 Main Estimates represent budgetary spending authorities for a total of \$168.3 billion. This amount represents over 97 per cent of the expenditure plan, as set out in the December 2001 budget of the Minister of Finance, Paul Martin. The remaining balance includes provisions for further

spending under statutory programs or for authorities that will be sought through Supplementary Estimates. Budget 2001 also provided for the revaluation of the government's assets and liabilities and allowed for any anticipated lapses of spending authority.

Honourable senators, the government submits its Estimates to Parliament in both Houses to support its request for authority to spend public funds. The Estimates include information on both budgetary and non-budgetary spending authorities. Subsequent to the examination of the Estimates, Parliament considers and votes on the appropriation bills to authorize the government's spending.

Budgetary expenditures include all those expenditures to service the public debt, all those operating and capital expenditures, all those transfer payments to other levels of government, organizations or individuals, and all those payments to Crown corporations. Non-budgetary expenditures include loans, investments and advances, which represent changes in the composition of the financial assets of the Government of Canada. These Main Estimates 2002-03 support the government's request to Parliament for Parliament's authority for the government to spend \$56.3 billion under program authorities, for which Parliament's annual approval is required. The remaining \$112.1 billion, which is 67 per cent of the total, is statutory, and those forecasts are provided for information purposes only.

Senators discussed these Estimates in some detail with the Treasury Board Secretariat officials when they appeared before the Standing Senate Committee on National Finance on March 12, 2002. A brief account of the exchange between senators and the officials is provided in the committee's thirteenth report in the *Journals of the Senate*, March 19, pages 1318 and 1319.

Honourable senators, I propose now to give an overview of some of the major changes affecting 2002-03 Main Estimates. These include the following major increases: \$3.8 billion for the statutory adjustment to the net Employment Insurance benefits and administration as reflected in the consolidated specified purposes accounts; \$1.3 billion for the Canada Health and Social Transfers; \$1.2 billion for direct transfers to individuals, including increases in Old Age Security and Guaranteed Income Supplement; and \$613 million for public security and anti-terrorism initiatives.

These increases also include \$439.1 million for salary increases, including the salaries of judges, members of the RCMP, members of Parliament and House Officers' remuneration, as adjusted in accordance with Bill C-28; \$382 million for the Resource and Management Review to meet Canada Customs and Revenue Agency's workload requirements, address rust-out, to provide for investment requirements and to restore historical service levels; \$349 million in payments to various international financial institutions relating to the commitments made by Canada under the multilateral debt reduction agreements; \$348.6 million for the Department of



National Defence spending, including \$110.6 million for pay and benefit adjustments approved for military and civilian personnel; and \$348.1 million in transfer payments under the Canada Infrastructure Program.

Honourable senators, continuing with my overview of the major changes in the 2002-03 Main Estimates, there will be \$216.2 million to address core operational and/or capital requirements, including recruitment, retention and learning initiatives; \$169.8 million for the establishment of the Primary Health Care Transition Fund; \$155.9 million in contributions for the new Strategic Highway Infrastructure Program; and \$143.5 million for the Fisheries Access Program to support the transfer of fishery licences to Aboriginal fishers and to address sustainable economic development and exploration of Aboriginal and treaty rights.

Honourable senators, the Main Estimates also include \$140.5 million for employer contributions to insurance plans for public service employees, largely caused by an increase in health care and other insurance programs and provincial health payroll taxes; \$113 million for government office accommodation, being additional space requirements of government departments, increased costs and temporary space required to allow maintenance to the existing office space; \$107.6 million to meet the increased demand for ongoing programs and services including the implementation of the Labrador Innu Comprehensive Healing Strategy; and \$97.5 million for the climate change initiatives related to the Climate Change Action Plan 2000.

Other amounts to be included are \$97.1 million in disability pensions due to the annual price indexation adjustments, increases in the volume of attendance allowance awards and an increase in the level and number of disabilities as clients age; \$85 million in payments to the provinces and territorial governments; \$81.6 million for the introduction of two new contribution programs to give Canadians more access to arts festivals and live professional performances, to improve physical conditions for artistic creativity and innovation, and for new initiatives to provide Canadians with quality cultural events by assuring the consolidation of the organizational, administrative and financial condition of arts and heritage organizations; \$77 million for the implementation of regional innovation initiatives; \$76.7 million for the establishment of the new Federal Tobacco Control activities; \$76 million for the new Atlantic Investment Partnership Initiative; \$75.7 million for the merger of the Communication Coordination Services Branch of Public Works with Communications Canada; and \$74.3 million for the increased costs of doing business abroad, including Canada's membership costs in international organizations.

Additional amounts include \$74 million for the creation of a new program under the National Shipbuilding and Industrial Marine Policy Framework to stimulate production in Canadian shipyards and an increase in payments under the Technology

Partnerships Canada Program; \$69.5 million for the construction of the new Canadian War Museum, including the revitalization and development of the LeBreton Flats site, including site decontamination, road work and servicing; \$60.5 million in capital funding to complete the purchase of a new office building in Vancouver and for health and safety repairs to various installations; \$60 million for contributions for agricultural risk management, the Canadian Farm Income Program; and \$60 million to strengthen and enhance CBC's radio and television programming.

Further changes include \$56.1 million for the establishment of the Office of Indian Residential Schools Resolution of Canada, created in June 2001 by Order in Council; \$54.4 million, in large part due to the implementation of programs committed under the Ozone Annex of the Canada-United States Air Quality agreement as well as for funding for the Climate Change Action Fund; \$53.2 million for interim funding, to ensure the integrity of the Canadian Food Inspection Agency's programs and to enhance the regulation and control of veterinary drug residues in food-producing animals and food products of animal origin; \$50.7 million, mainly to the increase in Canada's commitment to its international assistance envelope; and \$50.1 million for the encashment of notes of international financial institutions in order to meet Canada's commitment to the African Development Bank.

Honourable senators, continuing my recitation of the Main Estimates 2002-03, I now include some of the major decreases to various departments as follows: \$5.4 billion in public debt interest and servicing costs; \$183.8 million to the completion of the 2001 Census of the Population, \$173.8 million to the 2001 Census of Agriculture; \$133 million to the Canada Jobs Fund, due to the June 2000 decision to close the fund; —

**The Hon. the Speaker *pro tempore*:** Honourable Senator Cools, I apologize for the interruption. It is now six o'clock. Is it your pleasure, honourable senators, that I do not see the clock?

**Hon. Senators:** Agreed.

**The Hon. the Speaker *pro tempore*:** You may continue, Senator Cools.

•(1800)

**Senator Cools:** Other decreases include \$101.7 million in payments to international organizations related to the encashment of notes by the International Development Association in accordance with the Bretton Woods and Related Agreements Act, and also payments to the International Monetary Fund's Poverty Reduction and Growth Facility; \$91.8 million for government-wide initiatives largely due to the sunset of funding for the government-on-line initiative; and \$76 million to the Canada Education Savings Grant Program because the department now has access to a broader historical database to produce more accurate forecasts of funding utilization.

Further decreases include \$75.3 million to the merger branch of the Communication Coordination Services Branch of Public Works with Communications Canada; \$70 million to the Canada Student Loans Program, due to the change in financing arrangements for student loans and student assistance as a result of the change to directly financed student loans; \$59.5 million to contributions to provide farm income assistance to the agricultural community Spring Credit Advance Program; \$57 million to the Health Infrastructure Initiatives, due to the timing of the funding announcement in budget 2001, and incremental funding for this initiative will be accessed through the 2002-03 Supplementary Estimates; and, finally, \$50 million in anticipated contribution payments to provinces under the terms of the disaster financial assistance arrangements.

Honourable senators, on the non-budgetary side there is a net change of \$200 million, with the major increase being \$223.4 million in payments to various international financial institutions and the major decrease being \$100 million related to the loans disbursed under the Canada Student Financial Assistance Act.

Honourable senators, this represents a summary of the Main Estimates and the provisions of the content of the Appropriation Act No. 1, Bill C-52, known in our language as the interim supply bill.

In closing, I thank the Treasury Board officials and the members of the Standing Senate Committee on National Finance. I urge honourable senators to pass this interim supply bill, Bill C-52.

**Hon. David Tkachuk:** Honourable senators, I move the adjournment of the debate.

**The Hon. the Speaker pro tempore:** It is moved by the Honourable Senator Tkachuk, seconded by the Honourable Senator Nolin, that further debate be adjourned until the next sitting of the Senate. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**Some Hon. Senators:** No.

**Hon. Lowell Murray:** Surely we are not being denied the opportunity to put up at least one speaker on this bill.

**The Hon. the Speaker pro tempore:** Will those honourable senators in favour of the motion please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker pro tempore:** Will those honourable senators opposed to the motion please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker pro tempore:** In my opinion, the "yeas" have it.

Motion agreed to and bill read second time, on division.

## NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

### REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the eleventh report of the Standing Senate Committee on Energy, the Environment and Natural Resources (Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, with one amendment and observations), presented in the Senate on March 21, 2002.

**Hon. Nicholas W. Taylor** moved the adoption of the report.

He said: Honourable senators, the committee submitted the report with an amendment to Bill C-33. I think the house is entitled to an explanation of the amendment that was unanimously supported in committee. It concerns the deletion of clause 3 on page 4, which reads:

For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

Many Aboriginal people appearing before us viewed this with great suspicion because they feel they are covered already by section 35 of the Constitution and did not see any reason for this clause. The government representatives said that they were just trying to help. When the government tells you they are just trying to help you have to be suspicious, so we agreed with the Aboriginal people that the best thing to do would be to take it out of the bill entirely. There is no need for the clause to be in the bill as the rights are adequately covered under section 35 of the Constitution Act.

I might mention that we have two Aboriginal senators on our committee, Senator Sibbeston and Senator Adams, and Senator Watt is also occasionally a substitute member. They were the prime force behind the committee amending the bill before it was sent back to the house.

In our report, we also made this observation:

Your Committee views with concern the Governor-in-Council's regulatory authority over the prescribing of fees for the right to use waters on Inuit-owned land.



For those honourable senators who are not familiar with Nunavut, a portion of Nunavut contains lands that the Inuit own in fee simple. While, of course, the Inuit have rights in the rest of the land, the minister had the right to set fees and water withdrawals which mostly relate to mining in the whole of Nunavut. Your committee felt it was a little questionable whether a minister could start talking about licence fees or disposal of water on Inuit-owned lands. The Aboriginal people did not seem to be all that concerned about it, and since we had already given the minister a kick in the slats by taking out one clause, we thought an observation from the committee would be enough to hold the day.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

**The Hon. the Speaker *pro tempore*:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Robichaud, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## KYOTO PROTOCOL

### NOTICE OF INQUIRY

Leave having been given to revert to Notices of Inquiries.

**Hon. Nicholas W. Taylor:** Honourable senators, I give notice that on Wednesday, March 27, 2002, I will call the attention of the Senate to the necessity of Canada ratifying the Kyoto Protocol, which was signed on December 10, 1997.

## STATISTICS ACT NATIONAL ARCHIVES OF CANADA ACT

### BILL TO AMEND—THIRD READING—MOTION IN AMENDMENT—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Milne, seconded by the Honourable Senator Rompkey, P.C., for the third reading of Bill S-12, to amend the Statistics Act and the National Archives of Canada Act (census records);

And on the motion in amendment of the Honourable Senator Murray, P.C., seconded by the Honourable Senator Stratton, that the Bill be not now read a third time but that it be referred back to the Standing Senate Committee on Social Affairs, Science and Technology for further study.—(*Honourable Senator Milne*).

**Hon. Lorna Milne:** Honourable senators, I rise this afternoon in response to the motion put forward by Senator Murray to refer

Bill S-12 back to the Standing Senate Committee on Social Affairs, Science and Technology for further study. I want to urge all honourable senators to either put a strict time limit on how long the Social Affairs Committee has to restudy this bill or defeat the motion altogether.

The fact of the matter is that I raised every single one of the issues mentioned in my third reading speech with the committee before it conducted clause-by-clause analysis of the bill. The committee commenced its consideration of the bill on September 19, 2001. As a result of that hearing, the committee was able to obtain a series of legal opinions that had been obtained by Statistics Canada. In mid-October, those opinions were circulated to all members of the committee. On October 17, 2001, I wrote to all members of the committee to express my concerns about what was uncovered in the legal opinions. In that memorandum, I stated:

There is no credible legal opinion that has been received by Statistics Canada that can justify withholding these records from the National Archivist. As the National Archivist has already made a request for the records, the only conclusion that can be drawn is that Statistics Canada is breaking the law by failing to release the information.

•(1810)

Furthermore, honourable senators, on October 22, 2001, I sent out a nationwide press release, also sent to all senators' and MPs' offices, calling on Statistics Canada to stop breaking the law and release the information. In that press release, I stated:

It is now clear that Statistics Canada has a legal duty to release post-1901 census records, and they have repeatedly refused to do so....They can no longer claim any legitimate reason to avoid this duty....The latest legal opinion unequivocally states that the better legal view is that post-1901 census records should be released....Furthermore, the current Chief Statistician, Dr. Ivan Fellegi, was told as long ago as 1981 that, in order to comply with both the spirit and letter of privacy and access to information legislation, Statistics Canada would have to release post-1901 census information.

My opinions on Statistics Canada's legal and moral obligations were clear long before clause-by-clause analysis of this bill. I also made absolutely sure that the members of the Social Affairs Committee were aware of my opinion some six weeks in advance of clause-by-clause analysis of the bill. I have no doubt that had the committee been interested in pursuing these opinions further, they would have taken the time at that point to call Dr. Fellegi to testify in person before the committee. The committee chose to report the bill to the chamber without amendment.

Honourable senators, I am far less concerned with the spirited opinion and the debate that has surrounded this issue than I am with the factual errors contained in Senator Murray's speech and one rather incorrect impression that he may have left with this chamber. I will deal with the factual errors first.

[ Senator Taylor ]



On page 2355 of Hansard, Senator Murray said:

...Senator Milne believes that the 1918 legislation and the 1906 and 1911 regulations have been overtaken by the 1983 Privacy Act...

Honourable senators, that is not at all what I believe. I am repeatedly on the record as saying that the 1906 and 1911 regulations do not in any way constitute a guarantee of perpetual privacy on the part of the government. No promise of secrecy was ever made, and these regulations specifically stated that individual census returns "will be stored in the Archives of the Dominion." I am simply calling for those regulations to be followed.

In this regard, the 1983 Privacy Act is utterly irrelevant, even though it specifically provides for the release of individual census records after 92 years. As for the 1918 Statistics Act, I freely admit, as I have already done on numerous occasions, that the law changed at that time. The instructions for secrecy on the part of the contemporary census takers, as well as the instructions that the census results would be stored in the National Archives of Canada, were included in the act itself in 1918. I do not think that act was intended to create perpetual secrecy. However, I concede that, at that point, the will of Parliament becomes unclear and that legislation is needed to clarify the post-1918 records that they should be made public.

Senator Murray also made some comments on the report of the Expert Panel on Historic Census Records. Senator Murray stated at page 2356:

...the expert panel...was of the view that legislation would be needed to release information collected since 1918 because of the confidentiality provisions in the law passed that year.

That is partially true, but it does not accurately reflect the broader conclusions of the expert panel. The panel found that the 1906 results could have been released in 1998 and that the 1911 census can be released in 2003 without any further legislative invention. Furthermore, the only need to revise the law for post-1918 census information is in order to provide "greater clarity." Those were the words used by the panel. I note that the panel was co-chaired by a very strong advocate for privacy, former Supreme Court Justice Gerard LaForest.

Senator Murray also made mention of a compromise solution that would allow genealogists to search for their own ancestors. In support of the compromise solution, Senator Murray quoted Mr. Gordon Watts as saying:

I am interested in my ancestors. I am not interested in Mr. Radwanski's ancestors. I am not interested in Mr. Fellegi's ancestors. I am looking for my ancestors.

Senator Murray then noted that:

...that is the purpose of the compromise that was before the committee from Statistics Canada, and to which Mr. Radwanski referred...

In this part of his speech, I think that Senator Murray came close to suggesting that the compromise solution would address the problems that Mr. Watts and other genealogists have. I believe that Senator Murray, quite innocently, I am sure, left an incorrect impression with this chamber. At the committee hearing, Mr. Watts admitted to not knowing much about the compromise solution. After the hearing, when the compromise solution was made public, he had time to read and digest the proposal. Since that time, there has been no more outspoken critic of the compromise than Mr. Watts. He has called it overly bureaucratic, unworkable and has stated that it would likely prevent most genealogists from conducting their work. I am sure that Senator Murray did not intend to leave this impression, but it did warrant mentioning. Since the compromise solution appears to be a moving target, I am beginning to agree with Mr. Watts' sentiments.

Honourable senators, I do not believe that sending this debate back to the committee will greatly assist this chamber. As I have noted, all the comments that I made during my third reading speech were already on the record long before the committee completed its study of the bill. I have also personally lodged all of these comments and complaints with Dr. Fellegi. As such, I believe this motion should be defeated if there is no time limit set on it. However, as I would personally delight in having Dr. Fellegi appear before the Social Affairs Committee again, since he did not seize the opportunity to do so the first time around, I will support Senator Murray's motion, but only if there are very strict time limits on how long the committee will have before reporting back to this chamber.

Senator Murray told me that he does not want to overly prolong the debate on this bill. I can inform the chamber that I was able to contact Senator Kirby over the weekend, and he indicated that the Social Affairs Committee agenda will be very full right through into the fall after the summer. However, they do have a free day on Wednesday April 17, when we return. He is agreeable to attempt to have Dr. Fellegi appear before the committee on that day.

• (1820)

#### MOTION IN AMENDMENT

**Hon. Lorna Milne:** Honourable senators, I therefore move that Senator Murray's motion be amended to state as follows:

That Bill S-12 be not now read a third time but that it be referred back to the Standing Senate Committee on Social Affairs, Science and Technology for further study; and

That the committee report its findings to this chamber no later than Tuesday, April 30, 2002.

**The Hon. the Speaker *pro tempore*:** It was moved by the Honourable Senator Milne, seconded by Honourable Senator Rompkey, that the bill be read a third time.

It was then moved, in amendment, by the Honourable Senator Murray, that the bill be not now read a third time, but that it be referred back to the Standing Senate Committee on Social Affairs, Science and Technology for further study.

It was further moved, in amendment to the amendment, by the Honourable Senator Milne, that Bill S-12 be not now read a third time, but that it be referred to the Standing Senate Committee on Social Affairs, Science and Technology for further study and that the committee report its findings to this chamber no later than Tuesday, April 30, 2002.

Is it your pleasure, honourable senators, to adopt the motion in amendment to the amendment?

**Hon. Lowell Murray:** Honourable senators, I shall leave aside the procedural question of whether it is in order for an honourable senator to amend her own motion. I realize that Senator Milne is proposing to amend my motion in amendment to her motion. I do not know whether that is in order. Senator Milne may wish to have someone else sponsor the sub-amendment.

As to the substance of the matter, as I indicated on an earlier day, on the assumption that this arrangement is convenient to the committee, and that committee members can live with this, considering their workload, I have absolutely no objection and quite agree to the reporting date of April 30, 2002.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to and bill referred back to the Standing Senate Committee on Social Affairs, Science and Technology.

## NATIONAL ANTHEM ACT

### BILL TO AMEND—SECOND READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Poy, seconded by the Honourable Senator Banks, for the second reading of Bill S-39, to amend the National Anthem Act to include all Canadians—(*Honourable Senator Johnson*).

**Hon. Janis G. Johnson:** Honourable senators, I wish to add my voice to the debate on Bill S-39, to amend the National Anthem Act to include all Canadians.

The Honourable Senator Poy has made admirable arguments on the subject of Bill S-39. The Honourable Senator Beaudoin has offered constitutional analysis that shows the bill to be in

keeping with our Charter of Rights and Freedoms. Senator Beaudoin pointed out that it is the duty of honourable senators to pass this bill to amend the English version of the first version of the national anthem to bring it into line with the Charter.

Honourable senators I should like to add the perspective of a woman who grew up in the 1960s. It is unbelievable to us now, but the social climate back at that time was such that, upon finishing my political science degree at the University of Manitoba, I was not allowed to even apply for a Rhodes Scholarship to Oxford in 1969 because I was female.

Like most women here, I had to work hard to advance in the restrictive professional world of the 1970s and 1980s, when women were channelled into work as secretaries, nurses and teachers, and to succeed elsewhere was rare.

Canada has seen great gains in the area of gender equality since those days, and thank goodness. Nearly half of the lawyers and doctors now entering these professions are women. More women are enrolled in universities than men. It is now acceptable for women to dream of any professional life and take the steps to make that dream come true. My nieces are growing up expecting that they can be whoever they are and become whatever they like, the same way my son has.

Lest we think the challenge is over, consider that only five years ago, on average, women were still earning 64 per cent of what men earned in a year. Even when the category of part time work is eliminated, which women often prefer because of its greater flexibility, women were still earning only 73 per cent of what men earned in comparable full-time, full-year positions.

A large number of women are still concentrated in the so-called pink-collar ghetto, in positions with little responsibility, power or room for advancement. Women are still primarily responsible for the care of their families, even when they are in the midst of demanding careers. In 1997, women were still doing roughly two hours more of unpaid work than men per week, despite being in the workforce in nearly equal numbers. Women's share of unpaid work has remained stable since the early 1960s.

These responsibilities, along with the breaks in career development that come with childbearing and family care make it difficult for women to advance in the professional world under its current constrictive, linear work-life structure. That is why women are not rising naturally to the top levels of the profession world where the decisions are really made. Look around you, honourable senators. In our numbers, we will see proof enough of that.

Of the largest 500 companies in Canada, women head only 2 per cent. Equity policies are helping to balance things out in the workplace, but despite having come so far, we are not there yet.

[The Hon. the Speaker *pro tempore*]



My point here, honourable senators, is probably clear: We have become complacent. The fight for gender equality, not only for women's rights, is far from over. We have become complacent under the illusion that there is no longer a problem and that women and men are truly free to pursue any kind of life they choose.

One effort that has taken us this far was the trend toward inoffensive or so-called "politically correct language." People tired of the effort involved in changing their language to reflect our ideal values forged this trivializing term. The practice of changing our language to include women started in the 1970s as a positive way to encourage us to begin to think differently, and to think about equality. By including women in our language, we were affirming their importance in our society and denying that men were the sole active ingredients.

It is important to remember, honourable senators, that if we change the language, we will change the attitude. Important gains were made when Canada recognized that "man" was not a gender-neutral term. We are currently living under a lengthy backlash against political correctness, part of the growing pains that come with any important and fundamental changes to the way we think. Change is never easy, but without it we cannot move toward a more just society, the prime function of the legislation we review everyday. Making society more just is what we do here. Bill S-39 is that movement toward making our society more equitable, more open and more just. It is an attempt to see an important national symbol reflect what we all agree is an important tenet of our social ideology.

•(1830)

It is important to note that in preparing this bill Senator Poy, received many testimonials from both men and women who wanted to see the national anthem changed. This is not meant to be a battle of the sexes. It is not about making gains for women at the expense of men. It is simply an attempt to include all the people who live and work and raise families in Canada and to recognize them equally.

I want to address two of the arguments that have cropped up in our deliberations. The first is the argument for tradition. It has already been pointed out that tradition will, in fact, be honoured by the proposed wording, as it harks back to the original translation of the song's lyrics. It is not as though we are meddling with history any more than those who, as Senator Poy mentioned, changed the lyrics many times over the years before the song's elevation to our official anthem. The precedent is already there, and in returning to the original version we are, in fact, confirming the very deep roots of this song in our national consciousness, as well as including, once and for all, all Canadians.

There also seems to be some contention about the fact that Bill S-39 does not attempt to change the French-language version of the lyrics, which contains non-inclusive language as

well. However, the first verse in French does not include any questionable lyrics from a gender perspective, and this bill deals only with that verse in the English version, the only verse commonly sung as our national anthem and hence the most important in the anthem's capacity as a national symbol.

I thus believe, honourable senators, that this is a non-issue. If in the future an honourable senator or member of Parliament in the other place wishes to introduce a bill to amend further verses in English or in French to make them more gender neutral, I would happily support it. However, I feel it is most important that the verse that many of our children and grandchildren sing every morning at school reflects the fact that we all feel patriot love for this land.

Finally, I believe there is an argument against the provision of Bill S-39 that, if we make this one change, we open the door to many more. All I can say to this, honourable senators, is that the right thing to do is not always easy. In fact, it rarely is. That does not, however, make it any less the right thing to do.

In conclusion, I lend my unstinting support to this bill. It proposes a very small amendment that will make a very big difference.

On motion of Senator Corbin, debate adjourned.

## STUDY ON EFFECTIVENESS OF PRESENT EQUALIZATION POLICY

REPORT OF NATIONAL FINANCE COMMITTEE—  
DEBATE ADJOURNED

The Senate proceeded to consideration of the fourteenth report of the Standing Senate Committee on National Finance entitled: *The Effectiveness of and Possible Improvements to the Present Equalization Policy*, tabled in the Senate on March 21, 2002.—(Honourable Senator Murray, P.C.).

**Hon. Lowell Murray** moved the adoption of the report.

He said: Honourable senators, the hour is late, so I will try not to keep you long.

Fiscal federalism is in the news again. That should surprise none of us: it is a recurrent issue. However, it has been in or near the headlines in the past few days on the occasion of the tabling in Quebec of the report of the Commission on Fiscal Imbalance. This was a commission appointed by the Quebec government, a commission headed by a former Liberal member of the National Assembly, Mr. Yves Séguin.

The commission brought in a report that has been welcomed by both the Parti Québécois government and the Liberal opposition in that province, in other words, by both sovereignists and federalist speakers in Quebec.



It has been noted by, among others, journalist Don Macpherson in the *Montreal Gazette* that the Séguin report is an eminently federalist document that now has the support of a sovereignist government. However, while the Quebec government might prefer another option, they are quite happy to work within the present system for its improvement and certainly for the improvement of Quebec's lot in it.

I note that very early on the Séguin report states that fiscal imbalance has been one of the major issues of the Canadian federation since the mid-1990s. The report goes on to refer to the cutbacks by the federal government to the CHST in the mid-1990s.

I would say that the issue of fiscal imbalance has much more history than the Séguin report would have us believe. It is probably as old as Confederation itself. I am certainly old enough to remember something called the federal-provincial tax structure committee established during the Pearson years to analyze and try to confront precisely this problem. The problem I am speaking of is that of a rate of increase in projected federal revenues that seem to be much faster and steeper than the rate of increase of federal spending obligations as against a rate of increase in projected provincial revenues that would be much slower than the rate of increase of provincial spending obligations.

That problem righted itself to some extent in subsequent years, but here we are now back again with the Séguin report. That commission engaged the Conference Board of Canada to do a study. The study done by the Conference Board confirms and reinforces all the worst suspicions of the Government of Quebec, for it purports to show that over a period of the next 20 years there will be very considerable surpluses piling up in Ottawa because Ottawa's revenues will greatly exceed its spending obligations, whereas, at least in the case of Quebec, and inferentially I would say for most other provinces, there would be a succession of quite large deficits over the 20-year period because provincial revenues will be increasing so much more slowly than provincial spending obligations, notably in the fields of health and other social expenditures that are the responsibility of the provinces.

•(1840)

Honourable senators, all that is a rather lengthy preface to say that this was not the problem the Standing Senate Committee on National Finance addressed. Equalization may have a role to play in any future approach to the imbalance problem, but this was not the issue that we did address.

To the extent that the Séguin commission considered the federal equalization program, it did so by pointing to three inadequacies or failings in the program. The first was the existence of a five-province standard to calculate the so-called national average fiscal capacity. The second was the artificial

ceiling placed by the federal Parliament on annual increases in equalization. The third was the unwelcome surprises that are sometimes in store for provinces as a result of changes in methodology at Statistics Canada, the Department of Finance or wherever.

As it happens, the Séguin commission report came out almost at the same time our report did. I had not had an opportunity to read — nor do I believe other members of the committee did — the Séguin report, but I think it is important to make the point — and I trust Quebec will be pleased — that our committee had addressed these three problems directly and had made recommendations. Those recommendations are as follows: one, to go to a 10-province standard in calculating the national average fiscal capacity; two, to remove the ceiling imposed by the federal government and Parliament on annual increases in equalization; and three, to insist on consultation with the provinces and advance notice should changes in methodology be brought in that would affect the entitlement of provinces.

Since we tabled our report, I am very gratified to see that it has received quite positive response from provincial governments. Obviously, we did not adopt all of the recommendations that some of the provincial governments and their spokesmen had put before us; nevertheless, all in all, their response has been quite favourable.

New Brunswick Premier Bernard Lord, according to a dispatch from that province, welcomes the report. He says that it is what he has been talking about for two or three years, and then adds that the committee members took their time. Premier Lord said that committee members listened to a lot of witnesses and that they understand Canada. According to Mr. Lord, that is what the Senate is there for.

I am pleased to see that Premier Lord has a concise and coherent view of the role that this chamber plays in our parliamentary system and federation.

A dispatch from Prince Edward Island read that our committee is backing a call by P.E.I.'s premier for changes in the federal equalization system. Premier Binns says that the current system is unfair to the Island.

According to reports, the premier of Nova Scotia, John Hamm, said he got some good news from the Senate. He said that a report on equalization from the upper chamber supports the principle of the campaign for fairness.

I should tell honourable senators that Premier Hamm telephoned me on Friday, the day after the report was tabled, to congratulate the committee and to thank committee members for this report. Premier Hamm then followed this up with public statements and with a letter to me, copies of which I am sending to all members of the committee. I would be willing to table the letter here, if such is desired.

Premier Hamm welcomes our call for the adoption of a 10-province standard of the program and for the permanent removal of the ceiling on payments. He says that these have long been positions put forward by the Council of Atlantic Premiers. He also expresses his approval that the committee has recognized the need of the provinces of Nova Scotia and Newfoundland and Labrador to be the principal beneficiaries of their offshore resources. In particular, he agrees with our statement that the problem must be addressed within the offshore accords with the affected provinces or through some existing or new programs, not through changes to the equalization program.

This was followed up again by some material sent to me by his officials, including the statement that Prime Minister Trudeau made on July 16, 1980, on the issue of offshore resources. It is perhaps worthwhile to put it on the record. Prime Minister Trudeau said that "the commitment we have made regarding the offshore is that until the provinces with resources off their shores have reached the average income in Canada, we intend to see that they get the overwhelming part of the resources from the offshore."

As honourable senators will be aware, that was the spirit that animated the various offshore accords, including those that were negotiated by the successor government of Prime Minister Mulroney with the provinces.

Premier Hamm makes the point with me, and in this letter, that Nova Scotia had never advocated changing the equalization formula to exclude resource revenues. Indeed, a review of the evidence before the committee, and in particular the testimony of Premier Hamm's finance minister, Mr. LeBlanc, confirms that. They were not calling to have offshore resource revenues excluded from the equalization formula. This was a proposal put forward by others and urged upon us by some academic commentators, but Premier Hamm makes the point that it is not his or his province's position.

One other matter that Premier Hamm drew to my attention, and that I think I had better draw to yours, is that on page 10 of our report, in discussing the Canada-Nova Scotia offshore petroleum accord, we make the following statement about the accord:

Although the resources belong to the federal government, it was agreed that the province could tax them as if the province was the sole owner.

Premier Hamm was at some pains to remind me, and I shall remind you, that Nova Scotia has never conceded that point. First, it is important to mention — he had his Justice Department write to me on this — that, unlike British Columbia and Newfoundland, the legal status of the Nova Scotian offshore has never been finally determined by the courts. Through the Offshore Petroleum Resource Accord — the accord with Nova Scotia — both Canada and Nova Scotia agreed to set aside the title issues, so that the matter has never been completely resolved.

Nova Scotia's position, if you want a layman to put it in a nutshell, is, first, Nova Scotia had certain boundaries coming into Confederation; they were the boundaries of the old colony. The boundaries have not changed since Confederation; therefore, Sable Island and its territorial sea as well as the southern half of the Bay of Fundy are within the province of Nova Scotia. Then, of course, they remind us that they have a moral and legal argument that dates back to the creation of the colony through the grant to Sir William Alexander under King James VI of Scotland — or King James I of England, if you refer — in the 17th century. I will not dwell on that matter beyond putting it on the record, as I think I am duty bound to do, in view of Premier Hamm's call to me and the subsequent correspondence I had from his legal advisers.

Let me remind honourable senators that this study by the National Finance Committee was undertaken at the initiative of our friend Senator Rompkey of Newfoundland and Labrador. The occasion for that, some months ago, was a bill that was before us at the time from the Minister of Finance, Mr. Martin, to remove the ceiling on increases in equalization for one year. There was also hovering in the background some political controversy about what some people thought they heard the Prime Minister say at the time he and the provincial premiers struck their deal on health care. Some thought they heard him say that the government would proceed to remove the ceiling altogether. We did not look into that in committee. It was not particularly part of our mandate, but whatever the facts are, the Senate agreed to give this mandate to our committee and we pursued it conscientiously and as diligently as we could. The terms of reference, I remind honourable senators, were to consider and make recommendations on the effectiveness of and possible improvements in —

•(1850)

[Translation]

**The Hon. the Speaker:** Honourable senators, I regret to inform Senator Murray that his time has expired.

Honourable senators, do you consent to an extension?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would agree to allow Senator Murray the time required to finish his remarks.

[English]

**Senator Murray:** Honourable senators, I have only a few more points to make. I mentioned our terms of reference. We believe — and I certainly believe — that this equalization program is one of the pillars of Canadian federalism and it goes right to the heart of our concept of Canada. Without these unconditional grants enabling the less wealthy provinces to provide services of comparable quality at reasonably comparable rates of taxation, Canada would be a far different country than it is today. We would have enormous disparity in the quality of services being offered by provinces in fields from highways to education to everything else for which they are responsible. I



agree that the program and the formula are complex. When Mr. Martin appeared before our committee on this bill, he said that when he came to the department as minister there was one person in the department who truly understood the way the formula works. Unfortunately, that person had left the department in the interim. The message he was leaving is that no one understood it completely. It is really not that complex.

After a lot of study and discussion, we were of the view that it would be a serious mistake to take on unnecessary risks with this program and we tried to reflect that in formulating our recommendations. I do not believe we should tinker or tamper with a program such as this because it could so clearly have unforeseen and negative consequences. I believe most of the provinces agree with that position. We looked at some of the ideas that seemed so attractive that some of us started with a bias in favour of these more radical ideas. However, as time went on, and we looked at both the intended and possibly unintended consequences, we decided that the course of prudence was the one that recommended itself to us and the one that we should recommend to the Senate.

We are proposing some improvements to the program to remove several provisions, such as the ceiling and the five-province standard, which we believe are inconsistent with the principle of equalization. If this had happened beginning in 1982 and 1983, it would have cost \$3.2 billion to take the ceiling off. Furthermore, it would have cost \$31 billion if we had gone to a 10-province standard over the past 20 years. The federal treasury was saved some money but, as we point out in our report, the ceiling and the five-province standard places a burden on recipient provinces and thereby resulting in reduced services for Canadians in some provinces.

Honourable senators, I hope that the government will act on this report soon. This report does not require extensive study or analysis by the government because we are not proposing major changes to the concept or to the formula. These are changes that, by all future projections, are well within the fiscal capacity of the federal government. The statement that I just made is well founded in historical experience. We have a table — and, I think it is Table II on page 17 — that shows that, over time, the growth of equalization entitlements has tracked the growth in federal revenues year after year. Almost always, the rate of growth of equalization entitlements has been less than the rate of growth of federal revenues.

These, honourable senators, are responsible and prudent recommendations which, if implemented, will improve important provincial services to our people and contribute to the cohesion and unity in our federation. I very much look forward to hearing some debate on this report in the days to come.

On motion of Senator Rompkey, debate adjourned.

#### INTERNAL ECONOMY, BUDGETS AND ADMINISTRATION

##### TWELFTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the twelfth report of the Standing Committee on Internal Economy, Budgets and

[ Senator Murray ]

Administration (budgets of certain committees), presented in the Senate on March 21, 2002—(*Honourable Senator Kroft*).

**Hon. Norman K. Atkins** moved the adoption of the report.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

##### THIRTEENTH REPORT OF COMMITTEE ADOPTED

The Senate proceeded to consideration of the thirteenth report of the Standing Committee on Internal Economy, Budgets and Administration (salary increase for unrepresented employees), presented in the Senate on March 21, 2002—(*Honourable Senator Kroft*).

**Hon. Lorna Milne**, for Senator Kroft, moved the adoption of the report.

She said: Honourable senators, I believe I should say a few words about this report. The report before you seeks to provide a 3.2 per cent increase to our unrepresented employees. This increase will maintain parity with those provided to unionized Senate personnel as well as to other employees working on the Hill.

•(1900)

Honourable senators may recall that a collective agreement was signed in the fall with the Senate Protective Service Employees Association, which provided increases of 3 per cent effective January 1, 2001, and 2.5 per cent effective January 1, 2002. In addition, employees represented by the Public Service Alliance of Canada negotiated an agreement, signed in January of this year, which provided increases of 3.2 per cent effective June 1, 2001, and 2.8 per cent effective June 1, 2002.

Based on these facts, I urge honourable senators to support the adoption of this report.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and report adopted.

#### STUDY ON CANADA'S HUMAN RIGHTS OBLIGATIONS

##### REPORT OF HUMAN RIGHTS COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the second report of the Standing Senate Committee on Human Rights, entitled: *Promises to Keep: Implementing Canada's Human Rights Obligations*, tabled in the Senate on December 13, 2001.—(*Honourable Senator Andreychuk*).



**Hon. A. Raynell Andreychuk** moved the adoption of the report.

She said: Honourable senators, I rise today to speak to the second report of the Standing Senate Committee on Human Rights. Last year the Senate authorized the committee to pursue the general mandate of examining issues related to human rights and, *inter alia*, to review the machinery of government dealing with Canada's national and international human rights obligations. Since that time, the committee has identified some of the most fundamental human rights issues facing Canada today. The culmination of the efforts of all those involved in the work of the committee finds its expression in our second report that was submitted to the Senate last December.

First, I wish to express my appreciation to all those who contributed to the work of the committee and its report. In particular, the input provided by the witnesses who appeared before the committee made an inestimable contribution to the contents of the report. The depth of knowledge and understanding on the subject of human rights that they shared with the committee members was without equal. The members maintained a privileged opportunity to learn about the machinery of government and human rights in Canada from the evidence provided by these witnesses.

The members of the committee, from their own perspectives and experiences, also provided invaluable input in respect to the elaboration of the report. The expertise, experience and intelligence that they shared throughout the proceedings added to the depth of the debate and to the wisdom of the report's final recommendations.

As I have already mentioned on a number of occasions, I wish to thank the former deputy chair, former Senator Finestone, for her efforts in advancing the human rights agenda. I should also like to draw attention to the invaluable work that Senator Wilson has brought to the committee. Her promotion of international human rights and social concerns, as well as her strength in drawing together civil society into the human rights debate, will be truly missed by all. Her no-nonsense style, her impatience with words, her zeal for action and her commitment to a better Canada was a significant cause for the rapid advance of our agenda.

I must also mention the fine work of Mr. David Goetz, the committee's researcher, and Mr. Till Heyde, the committee clerk. They succeeded in assembling a solid report in little time. I am grateful for their excellence and dedication.

We are on the threshold of important changes within the field of human rights. When listening to the various witnesses who appeared before us, we perceived a great sense of enthusiasm that a Senate committee was dedicating its work to the study of human rights. The enthusiasm is well placed. The committee is filling an important gap that until now has not been taken up by

a parliamentary committee, this being the study of the machinery of government as it relates to Canada's national and international human rights obligations and Parliament's role in this process if democracy and good governance are to mark Canada in the future.

The second report of the Human Rights Committee identifies the fundamental issues that arise in this discussion. The issue of the machinery of government vis-à-vis human rights comes at a critical juncture in our history. Globalization raises ever-increasing challenges to the gains that have been made in the field of human rights over the past 50 years. Such challenges appear to rise in proportion to the pace that technology, international trade and international travel, to name but a few elements, draw the people of the world increasingly closer together. Human rights remain fragile in this climate of constant movement of people. Such a flow brings both the best and the worst that result from globalization. It is with all of these elements in mind that the need to recognize the significance of human rights instruments becomes apparent. It is curious to me that the debate universally today — or at least that which gets attention in the press — is the worry of a globalized world trade process, while at the same time the urgency of a world court, a global front on terrorism, anti-crime, et cetera, is occurring. Globalization is both trends. Our committee is struggling to find the right balance and trends for the furtherance of human dignity, worth and peace.

The challenge that lies before us involves recognizing that democracy, the rule of law and human rights are all precious institutions that must be preserved even in times of adversity. As paradoxical as it may seem, a fine balance must be struck between adopting laws that strive to preserve these institutions and preserving the institutions themselves. We cannot throw out the hard-fought gains that we have won over the years by adopting laws that claim to protect these gains but, in reality, actually undermine or destroy them. Such a direction runs counter to the significant contributions that this country has made in the field of human rights. As Canadians, we pride ourselves on the historic leadership role that our country has taken on in promoting human rights. We must continue to pursue this role.

We have a long history of advancing the human rights agenda. Canada played an instrumental role in the elaboration of the Universal Declaration of Human Rights. In 1960, we adopted the Canadian Bill of Rights. We shall be celebrating the twentieth anniversary of the Charter of Rights and Freedoms this coming April 17. Thus, by the end of the millennium, Canada had become a world leader in the field of human rights and a credible example for other countries. However, there is always room for improvement, and one cannot go so far as to state that there are certain fundamental adjustments that we should make and can make in order for Canada to live up to our commitments in this area. Perhaps they are nuanced and lesser than some state, but nonetheless our gains need to be built on.

• 1999 •

Over the years, human rights have gone through several phases. The first phase recognized human rights as a concept and saw to the protection of these rights within the legal framework of the state. In the second phase, human rights were further refined and international instruments came into force that were intended to secure benefits to all people of the world. We are now entering into a third phase of evolution of human rights, whereby we strive to live by the word of the commitments laid out in the various human rights instruments we have elaborated. This third phase represents Canada's present challenge in keeping pace and growing with the ever-evolving field of human rights.

The committee's second report identifies certain critical areas where Canada has not entirely kept abreast of developments in the field of human rights. If the gap widens between the manner in which some countries have developed their human rights laws and Canada, our role as leader in the field could be seriously undermined. Some of the witnesses who testified before the committee have already observed the repercussions flowing from Canada's lack of visibility in certain international human rights fora. One important cause for concern is that, over time, future contributions proposed by Canada in the international arena may well fall on decreasingly receptive ears.

A diminished presence for Canada in international human rights fora translates into a decrease in our ability to advance the human rights agenda. Our commitment to human rights defines the leadership role we play on the international stage in this area. Several witnesses before the committee explained that Canada's voice does not resonate to its full potential and needs to be enhanced.

Our diminishing voice in the international arena is not only the area that needs improvement. One particular area of concern, if not the major concern identified by many of the witnesses, relates to the lack of implementation into national law of treaties to which Canada is party. This country has ratified over 400 international instruments dealing directly or indirectly with human rights. However, in many cases, the rights outlined in these instruments have not been implemented into national legislation. Most western countries, unlike Canada, have developed mechanisms whereby ratified treaties are integrated into the law of the land. Some countries even accord constitutional status to these ratified treaties. If one compares such countries to Canada, one realizes there are definite initiatives we must adopt in order to give true effect to the international instruments we ratify.

Our system grants the executive the power to sign and ratify treaties. However, only the legislator has the power to adopt bills that will transform such instruments into legally enforceable laws. More often than not, we do not adopt such enabling

legislation. In this way, Canada often does not live up to the commitments made before the international community. The treaties that we ratify are not implemented into national law and therefore are not legally enforceable within our borders, at least not easily.

No doubt, in many cases the federal nature of our country complicates adopting enabling legislation. International treaties ratified by Canada often maintain commitments that have an impact on federal or provincial jurisdictions, or both. However, the complication is not an insurmountable obstacle. Many witnesses appearing before the committee proposed mechanisms whereby the provinces and the federal government would act in concert to ensure that international commitments engaged in by Canada would be transposed into enforceable federal and/or provincial laws.

It is important that Canada develop mechanisms that implement into national law the human rights commitments we have made before the international community. To do so would offer Canadians greater protection of the rights contained in the international instruments this country has ratified. Canadians maintain a strong commitment to the inherent dignity of the individual; therefore, we must ensure that our international human rights commitments are translated into enforceable national law. By this undertaking, Canada would ensure that the people of this land would have access to the courts in order to protect the rights set out in those instruments.

A common thread ties together the recommendations contained in the report. This thread underscores the idea that Canada's human rights commitments must be enhanced both internally and externally. Therefore, the report recommends that Canada improve the process by which we report to treaty bodies to which we are a party, improve the manner in which the treaty-making process progresses, strengthen or replace existing mechanisms of treaty implementation and explore the possibility of creating a new structure where we would debate whether this country should be a party to a given treaty.

This is not an exhaustive list. The report makes a number of other recommendations on how to arrive at a more matured human rights apparatus in Canada, including granting Parliament and civil society a greater role in discussions and decisions concerning human rights.

As parliamentarians, we are in a unique position to steer the debate that will set Canada on the course of the third phase to which I referred earlier. We will then be able to live by the human rights commitments we have made both to Canadians and to the international community. We offer a forum for open debate. We are accountable to the Canadian public and are responsible before the nations of the world. Parliamentarians play a pivotal role in bringing together the entire spectrum of society's competing and complementary interests that arises when balancing human rights with other priorities of society.



As parliamentarians, we reflect the values of Canadians, values that recognize that structures must exist in order to safeguard the inherent dignity of the individual. To better ensure the protection of this inherent dignity, it is important to anticipate the human rights issues that will arise in the future. Parliamentarians, as representatives of the Canadian people, are in a unique position, allowing us to keep an accurate pulse of the nation. We, therefore, maintain a perspective on human rights that includes all the people of this country and that can anticipate issues yet to become a focus of concern.

I invite honourable senators to acquaint themselves with the second report, in order to gain a clearer idea of the issues at hand in the present debate and, therefore, be in a better position to evaluate the support that the committee will seek from this chamber in the months to come.

We all share the responsibility owed to Canadians and the international community alike to continually enhancing the dignity and worth of all human beings. I am confident that the work of the Standing Senate Committee on Human Rights will be able to offer a modest contribution to this cause.

As we are here in this chamber, so is the United Nations Human Right Commission beginning its work. It is historic that Canada will be at the table at the Human Rights Commission while the United States, for the first time, will not. Canada will play an increasingly stronger role and we must rise to the occasion by developing new instruments, new awareness and new dedication.

I am confident the members of this chamber are behind the standing committee.

**Hon. John G. Bryden:** Would the honourable senator accept a question?

• (1920)

**The Hon. the Speaker *pro tempore*:** Honourable Senator Bryden, Senator Andreychuk's time has expired.

Is the Honourable Senator Andreychuk requesting leave for additional questions?

**Senator Andreychuk:** I would seek leave to entertain the question of Senator Bryden.

**The Hon. the Speaker *pro tempore*:** Honourable senators, is leave granted for one short question?

**Hon. Fernand Robichaud (Deputy Leader of the Government):** I would agree to leave for one question and a short answer.

**Senator Bryden:** I have only one question, and I will try to formulate it as well as I can.

Does the honourable senator think that it adversely affects Canada's role on the global stage in relation to human rights in

various nations that Canada has not been able to solve its own problem of human rights as it pertains to certain minorities? In particular, I am thinking of those classes of people who represent a disproportionate number of people who are incarcerated, of people who are poor and of children who are born with fetal alcohol syndrome. Does the honourable senator think that before truly searching out the mote that is in other nations' eyes, Canada needs to take the beam out of our own?

**Senator Andreychuk:** I thank the honourable senator for his question because that is the conundrum that the committee is facing. In Canada, we have a record that I believe is enviable in our attempts to deal with our problems. We have been extremely transparent and open to criticism and to observation by other countries to comment on our situation.

It is precisely because of that that we are credible players on the international stage. We do not come to the table with all the answers. We do not come with an unblemished record; rather, we come to the table with all of our problems. We sit at the table and say that only an international community can deal with the issues. No one is exempt from being at the table; no one is exempt from scrutiny. We all have to contribute to the international agenda.

Despite which government has been in place, that has been the commitment of all Canadians. The Human Rights Commission has had more individual complaints against Canada than virtually every other country. To that we say: That is the only way it can be addressed — in the community of man. That is where the United Nations universal declaration comes into play. It is not good enough to say that we will clean up our borders and then we will consult others because the borders are transparent. It is a global world and has been for many decades.

Our concerns cannot be for Canadians only or for the international population only. That is why the committee is increasingly looking at marrying what we have in Canada as instruments for furthering human rights for Canadians and testing that against the international instruments. Sometimes our examples are an inspiration to other countries. For example, we have the Charter of Rights and Freedoms.

On the other hand, we know that there are covenants such as the International Covenant on Economic, Social and Cultural Rights can be instructive to Canadian law in areas where we have fallen short in helping those in need and minorities in our country.

If I make anything out of what the excellent, thoughtful, dedicated witnesses from all walks of life in Canada came to tell us, it is that we must continue to be open and transparent. We also must move to a new generation of national and international perspectives. We have fallen down in not ratifying international instruments. We probably have a higher standard. However, we are finding that our standards are not higher than some of the international instruments, and there is validity in them.



The United Nations is moving, in the next decade, to compel countries to live by their agreements, treaties and covenants. Canada must find the ways and means to enforce international law within our borders. We cannot leave it to the courts, as was done in the *Baker* case that declared Canada has to at least put out a moral obligation that it should live by. We cannot say one thing internationally and then do something else nationally.

My answer is a plea to this chamber and to Parliament that we look at the next decade to improve our national and international positions by putting the two together to find new ways to mature human rights and to make them enforceable. In that way no one is exempt — not in Iraq and not in Canada.

On motion of Senator Fraser, for Senator Poy, debate adjourned.

[Translation]

## FISHERIES

### COMMITTEE AUTHORIZED TO STUDY MATTERS RELATING TO OCEANS AND FISHERIES

On the Order:

Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Beaudoin,

That the Standing Senate Committee on Fisheries be authorized to examine and report upon the matters relating to oceans and fisheries;

That the papers and evidence received and taken on the subject during the First Session of the Thirty-seventh Parliament be referred to the Committee;

That the Committee submit its final report no later than June 30, 2003; and

That the Committee be permitted, notwithstanding usual practices, to deposit any report with the Clerk of the Senate, if the Senate is not then sitting; and that the report be deemed to have been tabled in the Chamber.

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, the study of matters relating to oceans and fisheries mentioned in this motion does not represent any expenditure out of the ordinary. It would simply allow the Standing Senate Committee on Fisheries to do its work without requiring additional resources.

[English]

**Hon. Jane Cordy:** If it pleases honourable senators, I request leave to ask a question of the Chairman of the Standing Senate Committee on Fisheries, Senator Comeau.

**The Hon. the Speaker pro tempore:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Cordy:** The work done by the Fisheries Committee since I have been here has been of top quality. As a senator from

[ Senator Andreychuk ]

Nova Scotia, I appreciate the reports that the committee has presented to the Senate.

I did notice, however, that the final report must be deposited by June 30, 2003, and it is highly unlikely that the Senate would be sitting at that time. Senator Stratton, Senator Maheu and Senator Bryden raised this issue a few weeks ago. They suggested that perhaps committees could make every attempt to present or table reports when the Senate is sitting, which is not always possible. Would the Fisheries Committee consider an amendment to change the date of reporting to the Senate?

**Hon. Gerald J. Comeau:** I agree with the honourable senator that we should make every attempt possible to table reports when the Senate is sitting. We owe it to honourable senators to learn of the report in this place, rather than have them read about it in the newspapers.

I am confident that the members of the Fisheries Committee would agree with me in accepting an amendment to the motion that we table our report by the end of October 2003. If the honourable senator wishes to move the amendment, I would be more than pleased to accept it.

**Senator Cordy:** I am not a member of the committee. As such, I am not sure that I am permitted to move the amendment?

**Hon. Viola Léger:** I will second the amendment.

•(1930)

### MOTION IN AMENDMENT

**Hon. Jane Cordy:** I move that the Standing Senate Committee on Fisheries submit its final report no later than October 30, 2003.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Hon. Senators:** Agreed.

Motion in amendment agreed to.

**The Hon. the Speaker pro tempore:** Is it your pleasure, honourable senators, to adopt the motion as amended?

**Hon. Senators:** Agreed.

Motion agreed to, as amended.

[Translation]

## THE SENATE

### MOTION TO ESTABLISH SPECIAL COMMITTEE ON SUPPORT FOR LA RELÈVE IN THE ARTS—DEBATE ADJOURNED

**Hon. Céline Hervieux-Payette,** pursuant to notice given December 10, 2001, moved:

That a special committee of the Senate be appointed to examine the important issue of providing support for the next generation (La Relève) in the Arts;

That the special committee consist of five Senators, three of whom shall constitute a quorum:

That the committee have power to send for persons, papers and records, to examine witnesses, to report from time to time and to print such papers, briefs and evidence as may be ordered by the committee:

That the committee have power to authorize television and radio broadcasting or dissemination through the electronic media, as it deems appropriate, of any or all of its proceedings and the information it possesses;

That the committee have power to sit during adjournments of the Senate pursuant to Rule 95(2) of the Rules of the Senate; and

That the committee present its final report no later than two years after it is appointed.

She said: Honourable senators, in a spirit of cooperation, and knowing that my colleagues opposite are not prepared to sit on this committee, I wish to emphasize the importance of such a committee. I have already spoken with the Leader of the Opposition and with several of his colleagues who are interested in this sector.

The current government has spent an additional \$500 million in the arts sector. However, we should not think that this amount has resolved all the important issues having to do with the next generation (La Relève) in the arts. A Senate committee could review the priorities for providing support for the next generation in this area. This is important so that our society can preserve its Canadian identity.

When we speak of the next generation, I should specify that this refers to the artists involved in the performing arts, the writers, the painters, in fact, all those who make a living from the arts and represent the soul of our country. We must realize that, for us to instil love of the arts in our young people, they must come to know more about the means of communication between human beings.

This committee will need to address the threat of the electronic media and cultural homogenization. If we are to preserve respect for our Canadian identity, it is important that our cultural communities take part in this consultation. Our Aboriginal fellow citizens must be consulted, along with the general population, since we have, especially in the anglophone community, a very

strong presence right next to us, especially where the performing arts are concerned.

Essentially, the motion addresses a rethinking in this, the 21st century, of the way the arts develop within a country. More funding is required if this essential aspect of our lives is to be able to develop its full potential.

I would encourage my colleagues across the way to give very serious consideration to the establishment of a special Senate committee, which would examine the important issue of providing support for the next generation (La Relève) in the Arts.

On motion of Senator Hervieux-Payette, debate adjourned.

[English]

## LEGAL AND CONSTITUTIONAL AFFAIRS

### COMMITTEE AUTHORIZED TO STUDY IMPLEMENTATION OF STATUTORY REVIEW PROVISIONS

**Hon. Lorna Milne**, pursuant to notice of March 19, 2002, moved:

That the Standing Senate Committee on Legal and Constitutional Affairs be authorized to examine and report on the implementation of statutory review provisions contained in selected legislation relating to legal and constitutional matters:

That the papers and evidence received and taken during the examination of such legislation during previous Parliaments, and reports thereon, be referred to the Committee; and

That the Committee submits its final report to the Senate no later than December 20, 2003.

**The Hon. the Speaker *pro tempore***: Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators**: Agreed.

Motion agreed to.

[Translation]

The Senate adjourned until tomorrow at 2 p.m.

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CANADA

# Debates of the Senate

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• 37th PARLIAMENT

• VOLUME 139

• NUMBER 102

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OFFICIAL REPORT  
(HANSARD)

Tuesday, March 26, 2002

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THE HONOURABLE DAN HAYS  
SPEAKER



## CONTENTS

(Daily index of proceedings appears at back of this issue.)

## OFFICIAL REPORT

### CORRECTION

**Hon. Jane Cordy:** Honourable senators, I rise on a matter from Thursday, March 21, 2002, when I spoke on the status of palliative care. I stated that the letter was tabled in the Senate by Senator Kirby on December 5, 2002, which would have been impossible. It was December 5, 2001. I should like to set the record straight.

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### CORRECTION

*[Editor's Note]*

In Hansard of Monday, March 25, 2002, at page 2515, right hand column, second paragraph, it is stated that Bill C-52 received second reading, on division.

The paragraph should read "Motion agreed to, on division.", in reference to the adjournment of the debate by the Honourable Senator Tkachuk.





## THE SENATE

Tuesday, March 26, 2002

The Senate met at 2 p.m., the Speaker in the Chair.

Prayers.

### SENATORS' STATEMENTS

#### THE LATE JOHNNY LOMBARDI, O.C., O.ONT.

##### TRIBUTES

**Hon. Francis William Mahovlich:** Honourable senators, I rise today to pay tribute to the late Johnny Lombardi, founder of the multicultural radio station CHIN, Chief Executive Officer of CHIN Radio/TV International, and an icon in Toronto's immigrant community.

Mr. Lombardi was born in downtown Toronto in 1915 and, like myself, was the son of immigrant parents. He enlisted in the Canadian army in 1942 and was stationed in Normandy, Belgium, Germany and Holland as a Canadian army Sergeant during World War II. He received decorations and honours for the Battle of Britain, the France and Germany Stars, the Defence Medal, the Canadian Volunteer Service Medal and the War Medal 1939-45. In June 1994, Johnny was invited by the Prime Minister of Canada to attend the fiftieth anniversary commemoration of the June 6, 1944 D-Day invasion of Normandy.

After returning from the war in 1946, Johnny established Lombardi's Supermarket in downtown Toronto, equipped with loudspeakers playing Italian music. When a CHUM radio advertising rep approached him about advertising the supermarket, he could not afford it. Instead, Mr. Lombardi convinced the station to sell him an hour of air time every Sunday to showcase Italian music, and he covered the costs by selling his own advertising.

In 1966, he founded the first multicultural and multilingual radio station in Ontario, above the supermarket. To celebrate the beginning of CHIN Radio, which now represents over 30 cultural communities, he organized the annual CHIN International Picnic on Centre Island. Now in its thirty-sixth year, the event attracts thousands of people every Canada Day weekend.

As a tribute to his outstanding contributions to multicultural life in Toronto, Johnny received numerous awards, including: Broadcaster of the Year Award; Toronto Civic Award of Merit; Entrepreneur of the Year - National Council of Ethnic Canadian Business and Professional Associations; Order of Merit from the

National Congress of Italian Canadians; Hospital for Sick Children Foundation Award — Sick Kids Telethon; Member of the Order of Ontario; and, in 1981, Member of the Order of Canada.

To quote Moses Znaimer of Citytv:

He was one of the pioneers of multicultural appreciation in Canada and prophetic to the degree that what was radical and revolutionary when he started doing it is now both commonplace and politically correct.

A true Canadian success story, Johnny Lombardi exemplified what Canadian multiculturalism is all about: Respect, equality and diversity. His advice to new immigrants was to "fa una buona jobba — do a good job."

We extend our deepest condolences to his family. To Mr. Lombardi: "Hai fatto una buona jobba — you did a good job. Gracie."

[Later]

**Hon. Consiglio Di Nino:** Honourable senators, I wish to join my colleague Senator Mahovlich in paying homage to a dear friend, Johnny Lombardi.

Yesterday, in Toronto, a hugely overflowing crowd said goodbye and thanks to Johnny Lombardi, who passed away on March 18, 2002. Many prominent Canadians from all walks of life were in attendance to pay respect to a man who has championed the causes of new Canadians and those who did not have the ability or resources to fight for themselves. I was particularly impressed by the throngs of average Torontonians who came to pay their respect and say goodbye to a real hero of the little guy.

Johnny was a journalist, musician, war veteran, impresario, concert producer and radio personality. In 1966, his dream came true. He won the bid for a new radio station: CHIN, a name famous all over Ontario, and indeed Canada, was born. That radio station has served, and continues to serve, over 30 cultural communities in their own languages. My family and I were part of one of those communities who found comfort and inspiration from Johnny Lombardi during our early years in Canada.

Honourable senators, Johnny and I were friends for some 40 years, and I am sad because last week we lost a good one. To his wife, Lena, his kids, Lenny, Theresa and Donina, his five grandchildren and the rest of his family, I extend sincere condolences. To you, Johnny, "grazie e addio."

## THE *BLUENOSE*

**Hon. Wilfred P. Moore:** Honourable senators, on this day in 1921, a significant part of Canada's maritime culture and the seafaring heritage of Nova Scotia began with the launch of the schooner *Bluenose* from the Smith & Rhuland Shipyard at Lunenburg. During the next 19 days her two masts were stepped, she was rigged by Tom Mader of Mahone Bay, she was outfitted for fishing, and on April 15, 1921, she set sail for the Grand Banks. *Bluenose* was a highliner fisherman and a champion racer, and she has come to represent excellence in ship design, shipbuilding and seamanship.

Since 1994, I have served as the volunteer Chairman of the *Bluenose II* Preservation Trust, a not-for-profit society and charity of Lunenburg, with the mandate to maintain and operate *Bluenose II*, a replica of the original *Bluenose*. In May 1996, our Trust began its correspondence with the Royal Canadian Mint in an effort to convince the mint that the fully-rigged fishing schooner on the reverse side of the 10-cent coin of Canada is *Bluenose*. On Friday, March 15, 2002, the mint announced that it has officially recognized *Bluenose* as the design on our 10-cent coin.

I am delighted that the work of our Trust has resulted in this official recognition of *Bluenose* by the mint. I am especially happy for the family of the late William J. Roué, her designer; for the shipwrights of Lunenburg who built her; for the men of Lunenburg who fished and sailed in her, particularly the family of the late Captain Angus J. Walters, her legendary skipper, and for her crew, some of whom still reside in Lunenburg; and for the people of Canada, for whom she proudly sailed victoriously.

The lure and charm of this ship continues. Just last month, Trent Evans, icemaker of Edmonton, placed a dime bearing *Bluenose* to mark the centre ice dot in the hockey rink at Salt Lake City, one-half inch below the loonie that he also placed there. Our women's and men's hockey teams won gold medals at those Olympics, buoyed up by the luck of *Bluenose*.

• (1410)

## BULLYING

**Hon. Lorna Milne:** Honourable senators, I rise this afternoon to pay tribute to an Abbotsford, B.C. judge who had the courage yesterday to convict a teen whose bullying led to Dawn-Maria Wesley's suicide.

Honourable senators, this decision is long overdue. For years, bullying has been a silent problem in the schools and the schoolyards throughout Canada. Few have taken the issue seriously.

Bullying is far more widespread than most of us had ever thought, and it is not just happening in elementary schools and in

high schools. You only have to ask my own legislative assistant who has urged me to use this example. He can tell you about the long stretch of bullying, physical abuse, emotional abuse and harassment that he suffered from grade school through his recent graduation from law school.

Bullying is part and parcel of the experiences of many students who stand out, either physically or mentally. Some of the students are the brightest children in all schools throughout this country.

It is now obvious that bullying can be criminal, and I applaud the fact that it is finally being treated as such. I hope this decision will open the eyes of teachers, principals and students across the country to the real nature and the unforeseen and lifelong consequences of bullying.

[Translation]

## INTERNATIONAL DAY FOR THE ELIMINATION OF RACIAL DISCRIMINATION

**Hon. Lucie Pépin:** Honourable senators, last Tuesday, March 21, was the International Day for the Elimination of Racial Discrimination, a day reminding us of the need to overcome racism in all its forms and to reaffirm our commitment to foster respect, equality and diversity.

Unfortunately racism, which runs the gamut from social exclusion to ethnic cleansing, is still the source of atrocities and wars about which we cannot remain unmoved. Discrimination, sectarianism, anti-Semitism, and all forms of intolerance constitute a scourge we must work to eradicate at all cost.

Modern-day racism is no longer merely based on a supposed inequality between races. Increasingly, it is based on culture, nationality or religion. This new form of racism, disseminated in large part on the Internet, targets vulnerable social groups such as aboriginals, new immigrants, refugees, or ethnic, religious or sexual minorities, just because of their difference. We all need to speak out more against the dissemination of messages that are obviously hate-mongering.

The new situation engendered by the events of September 11, 2001 calls for more vigilance as well as more tolerance on our part. Peace is built on tolerance, and without peace it is futile to aspire to build anything viable.

We need to focus more on the compassion that lies within every human being. We need to be more sensitive to this human value, which calls upon us to understand and share the sufferings of others. It is only by seeking to come closer to these others that we can succeed in knowing them better and thus respecting them more.



Honourable senators, I could not close my speech without an encouragement to us all to continue to build a more tolerant world and to promote peace. It is my strong belief that a society that draws enrichment from its differences and strength from what it has in common, which is that we are all members of the same human race, is what will lead us to the dialogue of cultures working toward the civilization of the Universal so often extolled by the poet and academician Senghor.

[English]

## INTERNATIONAL TRADE

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Laurier L. LaPierre:** Honourable senators, having lived in British Columbia for 15 years in this incarnation and at least twice in two previous incarnations, I should like to associate myself with the remarks made by Senator St. Germain and our leader regarding the tragedy of the softwood lumber crisis in British Columbia. The softwood lumber crisis is affecting not only communities in British Columbia, but also communities all across the country, particularly rural communities that have been damaged recently from loss of population and other things that we have recently noted.

I am not, of course, as calm as Senator St. Germain or as calm as Senator Carstairs. I consider this to be an act of unfriendliness of astonishing magnitude. I am very much in accord with Minister de Young of British Columbia that this is a hostile act that will affect communities all across Canada.

I remember in the crisis over magazines that the Americans threatened to create a wilderness in Hamilton and destroy the steel industry through high tariffs if we did not give in on that issue.

By and large, it is well for Canadians to remember that the American government is essentially a bully. Second, the Americans have absolutely no understanding of the meaning of free trade. Their view of free trade is that the world has the right to freely buy their goods while they have the unalienable right to decide what goods the Americans will buy. Third, we must act as a people, not look to our individual, regional or provincial interests to find ways and means whereby we can protect the livelihood of our citizens in dignity and in comfort.

Honourable senators, I always say, even though it is not a nice thing to say, that with friends like the Americans, Canadians do not need enemies.

[ Senator Pépin ]

## ROUTINE PROCEEDINGS

### RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

#### TWELFTH REPORT OF COMMITTEE PRESENTED

**Hon. Jack Austin,** Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament, presented the following report:

Tuesday, March 26, 2002

The Standing Committee on Rules, Procedures and the Rights of Parliament (*formerly entitled the Standing Committee on Privileges, Standing Rules and Orders*) has the honour to present its

#### TWELFTH REPORT

Pursuant to its Seventh Report, adopted by the Senate on February 5, 2002, your Committee has reviewed the *Rules of the Senate* with respect to the matter of officially recognizing a third party, and recommends the following:

#### 1. That the *Rules of the Senate* be amended in rule 4

##### (a) by adding after subparagraph 4(d)(iii) the following:

“(iv) “Leader of a recognized party in the Senate” means a Senator who is the Government Leader in the Senate, the Leader of the Opposition or the leader of any recognized third party in the Senate.

(v) “Leader of a recognized third party in the Senate” means a Senator, other than the Government Leader in the Senate or the Leader of the Opposition, who is the leader of a recognized party in the Senate or a Senator acting for that Senator.”;

##### (b) by adding after subparagraph (k)(v) the following:

##### “(vi) Recognized Party in the Senate

“Recognized party in the Senate” means a political party that

(A) initially has five or more members in the Senate and is at the same time a registered party under the *Canada Elections Act*, and

(B) continues without interruption to have five or more members in the Senate, whether or not it ceases to be a registered party under the *Canada Elections Act*.”.

#### 2. That the *Rules of the Senate* be amended in rule 17 by replacing paragraph 17(2)(a) with the following:

“(a) consult the Leader of the Government in the Senate, the Leader of the Opposition, and the leaders of any recognized third parties in the Senate or in all cases, their designates.”.

3. That the *Rules of the Senate* be amended in rule 37 by replacing subsection 37(2) with the following:

"(2) The Leader of the Government in the Senate and the Leader of the Opposition shall be permitted unlimited time for debate, and each leader of a recognized third party in the Senate shall be permitted no more than forty-five minutes for debate."

4. That the *Rules of the Senate* be amended in rule 40 by replacing subparagraph 40(2)(b), with the following:

"(b) the Leader of the Government in the Senate and the Leader of the Opposition may each speak for no longer than thirty minutes, and each leader of a recognized third party in the Senate may speak for no longer than fifteen minutes;"

5. That the *Rules of the Senate* be amended in rule 85(5)

(a) by deleting the word "and" after paragraph (a);

(b) by replacing the period at the end of paragraph (b) with a semi-colon followed by the word "and"; and

(c) by adding after paragraph (b) the following:

"(c) with respect to members of a recognized third party in the Senate, by the leader of that party or any Senator named by that leader."

Respectfully submitted,

JACK AUSTIN, P.C.  
*Chair*

• (1420)

**The Hon. the Speaker:** Honourable senators, when shall this report be taken into consideration?

On motion of Senator Austin, report placed on the Orders of Day for consideration at the next sitting of the Senate.

## CANADA POST CORPORATION ACT

### BILL TO AMEND—FIRST READING

**Hon. Nicholas W. Taylor** presented Bill S-42, to amend the Canada Post Corporation Act (householder mailings).

Bill read first time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the second time?

On motion of Senator Taylor, bill placed on the Orders of the Day for second reading two days hence.

[ Senator Kelleher ]

## LIFE AND TIMES OF THE LATE DALTON CAMP, O.C.

### NOTICE OF INQUIRY

**Hon. Norman K. Atkins:** Honourable senators, with leave of the Senate and notwithstanding rule 57(2), I give notice that later this day, March 26, 2002, I will call the attention of the Senate to the life and times of the late Dalton Camp, O.C., whose death occurred March 18, 2002.

**The Hon. the Speaker:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

## QUESTION PERIOD

### INTERNATIONAL TRADE

#### UNITED STATES— RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. James F. Kelleher:** Honourable senators, my question is directed to the Leader of the Government in the Senate. We seem to be receiving mixed messages from members of the federal cabinet on what the government should be doing to respond to the softwood lumber crisis. On the one hand, today's *Globe and Mail* reported that Minister of Natural Resources Herb Dhaliwal raised the idea that Canada should be less cooperative with the United States in areas such as energy. On the other hand, it was also reported that the Minister for International Trade Pierre Pettigrew has rejected retaliation saying that a tit-for-tat battle would hurt Canada more than it would hurt the United States. Could the Leader of the Government in the Senate please account for the deviating positions of the Minister for International Trade and the Minister of Natural Resources?

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, I thank the honourable senator for that question. Certainly, the lead minister on this file is the Honourable Minister Pettigrew, who has been clear in stating that we have a \$90-billion trade surplus with the United States, and it does not behove us to act in ways that would impact on that trade surplus.

Minister Dhaliwal's response, as the lead minister for the province of British Columbia, was, I am sure, one of frustration because a deal should have culminated last Friday, and it did not.

**Senator Kelleher:** Honourable senators, the government's representatives are also sending out mixed messages about what the government should be doing to help the people who will be hurt by Washington's decision to impose a 29 per cent duty on softwood lumber. In today's *Globe and Mail*, it was reported that Mr. Dhaliwal wants Ottawa to provide assistance to lumber companies and their employees in light of the duty. However, Mr. Pettigrew is reportedly opposed to such aid on the basis that it would simply result in additional U.S. duties against the Canadian industry. Could the Leader of the Government in the Senate please clarify the government's thinking on this issue?



**Senator Carstairs:** Neither the government nor the cabinet have met on this particular issue because the House of Commons is not sitting this week. It will obviously make for a lively discussion because we have two ministers taking a somewhat opposite position on the file. As I indicated to Senator St. Germain, no decision could possibly be made until we actually assess the impact of the countervails and anti-dumping applied by the United States.

## TRANSPORT

### SAFETY OF TRANSCANADA HIGHWAY ROUTE 185 FROM RIVIÈRE-DU-LOUP TO NEW BRUNSWICK BORDER— POSSIBILITY OF CONSTRUCTING FOUR LANES

**Hon. Norman K. Atkins:** Honourable senators, my question is for the Leader of the Government in the Senate. Route 185, a stretch of the TransCanada Highway from Rivière-du-Loup to the New Brunswick border, is basically a two-lane highway. Over the last 10 years, there have been 89 deaths on this stretch of highway. In view of the fact that it is part of the TransCanada Highway, are there any plans for that portion to be developed into four lanes? That way, the TransCanada could be four lanes right through to Halifax. It seems critical to me that this highway be reconstructed.

**Hon. Sharon Carstairs (Leader of the Government):** Honourable senators, as I am sure the honourable senator knows, that particular stretch of highway, which he has indicated as Route 185, is not the only two-lane stretch of the TransCanada in this country. There are several government initiatives that could be used for this purpose. There is the highway infrastructure initiative, which allows municipalities, provincial and federal governments to work on highway development, but also there is the strategic infrastructure initiative. I will bring to the attention of the government that the Honourable Senator Atkins would like that infrastructure money spent in that area.

**Senator Atkins:** Honourable senators, more people than just I would like to see improvements in that area. As I said, there have been 89 deaths and many casualties in the last 10 years. It seems to me that of all the stretches of TransCanada Highway across this country, there is no other stretch with the same record of so many serious accidents.

• (1430)

**Senator Carstairs:** Honourable senators, I cannot verify the honourable senator's statistics regarding whether that has been the area of most accidents on the TransCanada Highway. I can, however, indicate that Quebec has proposed that Highway 185 be one of the joint projects that it and the federal government could do together.

## INTERNATIONAL TRADE

### UNITED STATES—RENEWAL OF SOFTWOOD LUMBER AGREEMENT

**Hon. Gerry St. Germain:** Honourable senators, my question is directed to the Leader of the Government in Senate and relates to the softwood lumber issue. In 1985, the Americans put a 35 per cent tariff on cedar shakes and shingles. At that time, the industry was being decimated, as our softwood lumber industry is being decimated today. A decision was made to put an embargo on western red cedar logs, blanks, bolts and blocks which led to an eventual shutdown of the entire American shake and shingle industry per se. There are just a few small cottage industries left.

Is the government giving any consideration — and, perhaps, if they have not had the discussion in cabinet, the honourable minister may consider bringing this suggestion to the table — to put either an embargo on all logs out of Canada or at least a 29 or 30 per cent tariff on logs going out of the country, which may be a solution? Would the minister consider taking that suggestion to cabinet?

**Hon. Sharon Carstairs (Leader of the Government):** I take everything that honourable senators propose to me in this chamber to my cabinet colleagues and I certainly will take that suggestion as well.

**Senator St. Germain:** Honourable senators, logically an action of this nature would be a fairly significant move on our part. With the shake and shingle industry, 90 per cent of the industry was in the riding I represented at the time. However, the softwood lumber issue is much larger. For the benefit of senators, a lot of logs come out of the United States into our market as well.

The reason that I urge the minister to take the suggestion to cabinet is that it would possibly revitalize our logging sector which is devastating not only the shake and shingle industry but also other industries in Canada. There is no logging going on. The surplus from the logs that are used in softwood lumber goes into various other sectors that are also now being impacted. That is why I ask the minister to take the suggestion to cabinet.

**Senator Carstairs:** I thank the honourable senator for his suggestion. I assure him that it will be brought to the attention of the Honourable Mr. Pettigrew.

**Hon. Nicholas W. Taylor:** Honourable senators, my question for the Leader of the Government is also on the softwood lumber industry. As the Americans are imposing the tariff in order to keep our logs out of their country, not to raise money for themselves, I am wondering whether the minister could take the suggestion to cabinet that we ourselves put on a 30 or 35 per cent export tax that, in turn, could be granted as a rebate to the Government of B.C., to help the industry.



**Senator Carstairs:** With the greatest respect to the honourable senator, the rebate could not go just to the Government of British Columbia because there are other provinces that will be affected by the whole softwood lumber issue, particularly the Atlantic provinces, my own province of Manitoba and the province of Quebec, as the honourable Leader of the Opposition has pointed out.

As to some kind of *quid pro quo*, that was part of the negotiations conducted between the Americans and the Canadians, and they failed to come to an agreement at the end of last week. We should all bear in mind that these countervails and anti-dumping percentages do not come into effect until May. It is hoped that the negotiations can continue until that time, although I think that a cooling-off period at this juncture is rather important from both sides.

[Translation]

### DELAYED ANSWER TO ORAL QUESTIONS

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a response to questions raised by Senators Angus, Cochrane and Taylor on March 12, 2002, concerning port security.

### NATIONAL SECURITY AND DEFENCE

#### REPORT OF COMMITTEE ON SURVEY OF MAJOR SECURITY AND DEFENCE ISSUES—PORT SECURITY

*(Response to questions raised by Hon. W. David Angus, Hon. Ethel Cochrane and Hon. Nicholas W. Taylor on March 12, 2002.)*

Budget 2001 provided \$15 million in additional funds to the Department of Fisheries and Oceans to increase the scope and frequency of its surveillance flights over critical approaches to North America, and increased ship days for Coast Guard vessels, to augment Canada's capacity to identify and address potential marine threats.

A new requirement was levied on all vessels over 500 gross tons, and on carrying or pushing vessels carrying pollutants or dangerous cargoes, to request clearance from the Canadian Coast Guard 96 hours before entering Canadian waters. This affords additional time for a more thorough and vigilant screening of the vessel, crew, passengers and cargo.

Upon giving notice to the Canadian Coast Guard, the vessel is checked against a list maintained by Transport Canada entitled Ships of Particular Interest, which includes vessels known to have links with terrorist activities.

Canadian port authorities have already increased security, with additional patrols and surveillance, and through liaison with local police and U.S. authorities.

The Government has formed an Interdepartmental Marine Security Working Group to review all aspects of marine and port security.

[English]

## ORDERS OF THE DAY

### YUKON BILL

#### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Gérald-A. Beaudoin:** Honourable senators, I have a few comments to make on Bill C-39, the Yukon Act. This bill is of great importance. Some questions of constitutional law are also involved.

We have in our country 10 provinces and three territories. I should say first that if the provinces are taking directly their legislative powers from the Constitution of 1867 — listed, for example, in sections 92 and 93 — the same is not true of the territories. Their legislative powers, in principle and in general, are delegated powers from the Parliament of Canada.

As stated in clauses 18 and 19 of Bill C-39, their legislative powers are generous, numerous and similar, to a great extent, to the provincial powers, but they do not exceed the provincial powers. However, as I said, they are delegated powers. In law, it means that they may be amended by Parliament and even taken back or enlarged. This is of the utmost importance when we talk about the negotiations between the Aboriginal people and the Crown in right of Canada, or between the Canadian government, the Yukon government and the Aboriginal nations.

[Translation]

A constitutional amendment is required in proper form, under the 7/50 formula, according to subsection 42(1)(f) of the Constitution Act, 1982, in order to make a territory into a province. That point does not concern us here. What is more, as a reading of sections 38 through 49 of the Constitution Act, 1982, will show, the territories do not play a role in constitutional amendment. This point is not before us either.

As Senator Carstairs has said, Bill C-39 modernizes the legislative framework of the Yukon and transfers administrative powers to the government and legislature of the Yukon.

Section 35 of the Constitution Act, 1982, is not changed in the least by Bill C-39. That section, an important one moreover, remains and retains all of its force. The courts have interpreted it generously, and rightly so, but it is not absolute. This must be pointed out. The Northern Affairs Program Devolution Transfer Agreement sets out a non-derogation clause in section 1.6 of part 1, which reads as follows:

1.6 Nothing in this Agreement shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

This is also reflected in clause 3 of Bill C-39, which states:

3. For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*.

• (1440)

[English]

The ownership of the lands is vested in the Crown in right of Canada. The Parliament of Canada may also deal with the property of the land. It is within its powers. However, Parliament may delegate legislative and executive powers to the Yukon government. In my view, the rights of the Aboriginal people are duly protected by section 35 of the Constitution Act, 1982, because that protection is constitutional.

[Translation]

I note, however, that unfortunately only the English version of the Yukon Northern Affairs Program Devolution Transfer Agreement is official. The French version of the agreement is a translation only.

This violates the equality of the official languages at the federal level in our federation. It is essential that this shortcoming be mentioned.

I cannot overemphasize the importance of bilingualism in Canada. The federal government and the Parliament of Canada are bound by constitutional provisions on bilingualism. The territories are entities with delegated powers. Parliament, as we know, cannot abdicate its responsibilities by delegating its powers.

[English]

Senator Watt has referred to Yukon as a third party, and I understand what he means. That is one way to view the situation. In law, Yukon is a federal territory, as are the Northwest Territories and Nunavut. The Constitution of Canada, including

the Canadian Charter of Rights and Freedoms, applies to the territories. Ownership is vested in the Crown in right of Canada, in principle. In all three cases, the "government" is a delegated government. The jurisprudence also provides that the federal authority has a "fiduciary duty" towards Aboriginal peoples.

That concludes my comments, honourable senators, on Bill C-39.

**Hon. Charlie Watt:** Will the senator take a question?

**Senator Beaudoin:** Yes.

**Senator Watt:** Honourable senators, Senator Beaudoin, in a similar fashion, repeated what the Honourable Senator Carstairs, our leader, said with regard to third parties, and classified the Yukon government as a third party. However, does the honourable senator not agree that, although the Yukon government is still part of the federal government instrument, it is being empowered to deal with a third party? Is that not the case?

**Senator Beaudoin:** Honourable senators, the Parliament of Canada is the federal authority in this country and, as such, it has the right to delegate powers to Yukon and to the other territories. I noted very clearly that most of the provincial powers are very similar to those that are delegated to Yukon, Nunavut and Northwest Territories. There is such a thing as the Yukon government and there is such a thing as the Yukon legislature, but they are a delegated government and a delegated legislature. You may compare their powers with the powers of the provinces, but the distinction between a province and a territory is that a territory takes its power from Parliament itself, usually by a statute, while a province is in a very different situation. A province takes its power directly from the Constitution. Sections 91, 92, 93 and 95 deal with that and, in its sphere, Ottawa is sovereign. Similarly, the provinces, in their field, are sovereign.

We must remember that there is a difference in constitutional law between a province and a territory. The position that is taken appears to be correct, in my opinion. Having said that, however, I concur with the Supreme Court that the fiduciary duty towards Aboriginal peoples is very important. It means that Ottawa should keep in mind the interest of the Aboriginal nations.

I agree with the honourable senator that Aboriginal peoples are obliged to deal with the Yukon government, which is a delegated power, but a very strong one. They may also negotiate with the Government of Canada, because the federal government delegates power and may take it back if it chooses to do so. The power of a territory is not of the same nature as the power of a province. One is delegated, and the other is given by the Constitution.

It is important, however, that negotiations continue between Aboriginal peoples and the Government of Canada. As far as I can see, that is happening.

[ Senator Beaudoin ]



My only reservation concerns bilingualism. Ottawa has changed its attitude entirely from a few years ago — and, in particular, since 1968 and 1988 when we adopted the Official Languages Act. We should adhere to the provisions of that act.

**Senator Watt:** Honourable senators, I do not believe that the honourable senator has answered my question regarding the concept of a third party. The premise of my question was: Since territorial governments are empowered by the federal government — and territorial governments are an agent of the federal government — are they empowered to deal with third party interests? That was my question.

Senator Beaudoin cited section 35 in his argument. We are all very familiar with that section. It can be brought to bear to test whether rights should be violated if an interest arises. However, we are dealing here with an unsettled matter that was entrenched in the Constitution in 1870, which goes above and beyond the provisions of section 35. Does the honourable senator agree with that?

**Senator Beaudoin:** Honourable senators, section 35 is right at the heart of the Constitution. It cannot be better than that. It is like the Charter of Rights, except the Charter of Rights deals with individual rights and section 35 deals with the collective rights of Aboriginal peoples or nations. I use the word “nations” because the Supreme Court of Canada has used that expression in some cases. Section 35, which protects the collective rights of the Aboriginal peoples — and, I repeat again that the Supreme Court has been generous — is always there. It is far more important than anything else because it is the Constitution. Laws must comply with the Constitution. The Constitution is paramount.

• (1450)

In answer to the first question, of course it is a third party, although “party” is not the word I would use. We have the governments of Canada, the provinces and each of the three territories. It is true that by Bill C-39 we are delegating some powers to the Government of Yukon, but we have been doing so for more than a century. While it is true that the Aboriginal peoples may negotiate with that government — with that party, if you prefer — the Government of Canada is always at the table. We have granted those powers, but they may be modified at any time.

**The Hon. the Speaker:** I regret to advise that the time for questions and comments has expired.

Do you wish to ask for additional time, Senator Beaudoin?

**Senator Beaudoin:** Senator Comeau has a question. If I may obtain leave?

**The Hon. the Speaker:** Honourable senators, is leave granted?

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would be prepared to allow another question and another answer.

**Hon. Gerald J. Comeau:** Honourable senators, Senator Beaudoin mentioned in his speech that Bill C-39 would deal only with translation. This worries me a bit, given the federal government's commitment to the bilingualism and official languages program. This bill being a transfer of powers and not of responsibilities, it is worrisome to note that the government is minimizing the provisions having to do with the application of the Official Languages Act. Could you give us an example or two of the impact of these measures affecting official languages?

**Senator Beaudoin:** Bill C-39 is drafted in both languages. That is very clear, very precise, and very fine. It is the accepted practice.

In the Yukon Northern Affairs Program Devolution Transfer Agreement, we read —

[English]

The French version of this agreement is a translation. The original English version is the only official version. This is not a law, of course, but an agreement, an accord. However, as the federal authority in this country — the laws, bylaws, regulations, et cetera — has been bilingual since 1982, I would have expected that matters between the territories and the Parliament of Canada are bilingual. It is just a matter of logic. The territories have, I understand, their own Official Languages Act, and we have the Official Languages Act of 1968 and 1988. I am very proud of that statute.

I do not think we should restrict it in any way. That is why I reserve on the question of bilingualism. It is not the bill itself. The bill, of course, is bilingual.

**The Hon. the Speaker:** I have a senator rising to put a question, but I only have leave for the question of Senator Comeau. Do you wish to ask for further leave, Senator Beaudoin?

**Senator Beaudoin:** Yes.

**The Hon. the Speaker:** Is leave granted?

[Translation]

**Senator Robichaud:** Honourable senators, I am bothered by this, since the practice was put in place in order to give senators the opportunity to complete their remarks, and to ask one or two questions if there were time. If I am asked for consent each time I impose a condition, this practice we are trying to inaugurate will not be able to be instituted. Could the honorable senator's question wait?



**Hon. Eymard G. Corbin:** Honourable senators, I would like to raise a point of order. Senator Beaudoin's question is very important. I am in the process of formulating a question I would like to ask him at the third reading stage of the bill. My question is a fundamental one. I would like to have the benefit of this opportunity. I am not one to let things drag on.

**Senator Robichaud:** I agree.

[English]

**The Hon. the Speaker:** Leave is granted. Is that agreeable, Senator Beaudoin?

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I rise on a point of order. It is on the record of this house that I oppose this interpretation, although it has been supported by the Chair that a senator can put conditions on the granting of leave. Senator Robichaud has had the opportunity to express the granting of leave. Now we will give him another opportunity. It seems to me, honourable senators, that we continue to have problems with this process. If we are to have open debate, I am in favour of allowing Senator Beaudoin to be questioned. The honourable senator who has forgotten more about constitutional law than all us together will ever learn. Therefore, it is an opportunity to enrich our debate.

Honourable senators, what are we faced with? Senator Robichaud will suggest giving Senator Beaudoin another five minutes, and later, if someone makes an argument, he will be given another 10 minutes? There is something wrong with this process.

[Translation]

**Senator Robichaud:** Honourable Senators, I do not understand my honourable colleague's intervention. Is he refusing to consent to other questions?

[English]

**Senator Kinsella:** I just do not want you to have all manner of consent.

**The Hon. the Speaker:** Honourable senators, we could deal with it as a matter of order, although I did not hear Senator Kinsella ask for that. I believe he wanted to make a comment on the discussion as to whether leave should be granted. I believe we now have leave to proceed with questions to Senator Beaudoin, which he has agreed to.

[Translation]

**Hon. Aurélien Gill:** Honourable senators, Senator Beaudoin has indicated that the Government of Canada can delegate its responsibilities to the Territory or Government of Nunavut. If the Government of Canada wanted to delegate its responsibilities or

fiduciary role in connection with aboriginal people, could it do so for the First Nations?

**Senator Beaudoin:** The fiduciary role to which the Supreme Court referred means that, when the government makes legislation, it must keep the interests of aboriginals in mind because they need special protection and possess special collective rights.

• (1500)

As for powers, the federal government may delegate them to the territories. It must not be forgotten that there are aboriginal peoples in the Yukon, but that there are also non-aboriginals. The Yukon legislature will exercise delegated powers and must remember, when making legislation, that aboriginals have collective rights and that it must respect those rights. That is important.

I am not worried for aboriginals because they have section 35 in the Constitution. It must be complied with. I therefore think that we must respect these powers and that any legislation must take this into account. If the rights of aboriginals are not respected, they will take their case to court and they will win.

**Senator Corbin:** Honourable senators, Senator Beaudoin raised the matter of the French text. Is he not worried that this sort of initiative will set a precedent, which will gradually lead to the erosion of the importance of the Official Languages Act, as it should be applied in this country?

**Senator Beaudoin:** As a jurist, I do not like to see important legislation tampered with. We could always improve the Official Languages Act. In my view, section 41 is essential, but that has not yet been decided.

When certain obligations are removed from the Official Languages Act, my first reaction is to say that that is a shame, because it is one of the beautiful things about Canada, about our country. I am scrupulous when it comes to bilingualism, and I say that it must be respected.

I am prepared to wait, because everything cannot be done at once. I think, however, that we must be faithful to this ideal.

This debate on certain sections of the Official Languages Act is already before us, in the Standing Senate Committee on Legal and Constitutional Affairs. I am saying clearly that I have a reservation in this regard and I am stating what it is.

[English]

**Hon. A. Raynell Andreychuk:** Honourable senators, as I understood the discussion between Senator Watt, Senator Gill and Senator Beaudoin, Senator Beaudoin seemed to say that the Constitution has embedded the rights of the Aboriginal people. In fact, certain sections of the Charter and the Constitution address Aboriginal rights and issues. Is Senator Beaudoin saying that that is the sum total of the rights of the Aboriginal people?

When the Nisga'a agreement was before the Senate, the government's position was that there are suspended rights that supersede the Constitution of Canada and that those rights cannot be tampered with or extinguished. If that is the case for Nisga'a, why is it not so for the Aboriginal peoples in this case?

**Senator Beaudoin:** Honourable senators, I remember very well the debate that we had in this chamber on the Nisga'a treaty. I thought that there was something that was unconstitutional when we said in the statute that the powers that we gave to them were paramount. There is no ruling of the Supreme Court to the contrary, but I have always felt that paramountcy in this country, in case of war or something, lies with Parliament. To give paramountcy to a part of the population is probably unconstitutional.

In this case, some lands are in Yukon, and some are in British Columbia. It is two different things. The lands in B.C. are in a province, and the lands in the Yukon are in a territory. It may be different to a certain extent.

However, if ever this question were raised before a court, I would have no hesitation in suggesting that the court would say that section 35 is above everything and that all laws, regulations and delegated powers should comply with section 35. The collective rights are adequately protected.

**Senator Andreychuk:** Honourable senators, my question was not about section 35 but about whether the honourable senator is saying that, in his interpretation, section 35 is the sum total when it comes to the rights of the Aboriginal people that should be protected by this Parliament. Surely that is not what the government was saying in the Nisga'a treaty, and that is not what we have said previously when dealing with our fiduciary responsibility. The honourable senator seems to be saying that section 35 trumps all other issues and all other rights. As I understand the Aboriginal peoples, they are saying that their rights are entrenched in section 35 and they must be bound by that section, but that they have other rights, higher rights that were given to them historically. If the Nisga'a treaty proves to be the law of the land and is constitutionally valid, they have suspended rights that go way beyond our Constitution.

**Senator Beaudoin:** Honourable senators, section 35 speaks about the rights issued under treaties. Of course they have more than section 35; however, the main section is section 35. Section 91.24 empowers Parliament to legislate for Aboriginal peoples. Rights have been given to them in the past by treaties since the days of Governor James Murray. They have those rights. Each time the court is seized with a question, it looks at the rights issued under treaties and interprets those rights. The rulings of the court have the same value as a constitutional statute.

The honourable senator is saying that those rights constitute more than section 35. I agree, but that is the main section. The

Charter states that it does not set aside any right of the Aboriginal people. Section 35 is outside the Charter and says that they have collective rights issued by treaties. We have many cases involving Aboriginal peoples and the court has been generous. I would agree. That is all I can say.

**Hon. Laurier L. LaPierre:** Honourable senators, I am somewhat lost.

[Translation]

Senator Beaudoin knows the great respect in which I have held him for many years now.

[English]

I would like the honourable senator to tell us whether Bill C-39 abrogates in any way, shape or form the collective rights as entrenched in section 35, or if it weakens that provision of the Constitution in any way, shape or form. Where are we now?

• (1510)

If we vote for this bill, honourable senators, are we endangering the fundamental rights of the Aboriginal peoples of our country? Can we vote for this proposed legislation in pure conscience that these rights will not be abrogated? At the end of the day, if we go to the courts, many people will suffer irreparable damage to their fundamental rights.

As a French-speaking person, I would never allow an act of Parliament to abrogate in any way, shape or form the rights of the French-speaking or of the English-speaking people of Canada. I will not vote for a bill that in hinders, insults or harms the rights of Aboriginals in this country. Will Senator Beaudoin assist me in this regard so that I may go to heaven?

**Senator Beaudoin:** Honourable senators, Bill C-39 respects the division of powers and section 133 of the Constitution. No one raised a question with regard to Aboriginal rights. If someone brings to my attention that the power of Aboriginal peoples has been violated, then I shall not vote for the bill. However, no one has brought such a thing to my attention. Thus, I am inclined to vote for the bill.

If ever a right is violated, it is possible for Aboriginal peoples to go to court to raise that question. If an issue is raised before a vote, I should like to hear those concerns. However, no one has brought such a matter to my attention.

I will vote for the bill. If we are wrong, there is the possibility to go before a court. However, if I were sure that we are violating the Constitution, then I would not vote in favour of the bill. However, that is not the case.

On motion of Senator Kinsella, debate adjourned.



[Translation]

## COURTS ADMINISTRATION SERVICE BILL

THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Sibbeston, for the third reading of Bill C-30, An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

**Hon. Gérald-A. Beaudoin:** Honourable senators, I simply want to say a few words about this bill at third reading.

In the Legal and Constitutional Affairs Committee, we had a most interesting discussion on judicial independence, and more specifically institutional independence, that is to say the independence a judge must have in the performance of his judiciary duties *per se*. This independence is protected by the Constitution as interpreted by the courts of justice, the Supreme Court of Canada in particular.

I believe that the creation of the administrative service under Bill C-30 makes a definite contribution to enhancing the institutional independence of the federal courts that are mentioned in Bill C-30.

We examined the scope of clause 5 of the bill as well as the duration of the Chief Administrator's mandate. He is appointed during pleasure for a period of five years, subject to renewal. In my opinion, it is of little importance whether the mandate is extended, be it seven years or nine, because the Chief Administrator is appointed during pleasure, at any rate.

In the Legal and Constitutional Affairs Committee, this matter was debated and comparisons were made with officers reporting directly to Parliament, such as the Auditor General, the Chief Returning Officer and certain commissioners. The Chief Administrator's situation is different from theirs. Granted, this is a very important administrative position, but clause 9 of the bill stipulates that a chief justice may issue binding directions in writing to the Chief Administrator with respect to any matter within the Chief Administrator's authority. In other words, the administrator reports to the chief justices. This clause not only does not run counter to the principle of judiciary independence, but in fact, on the contrary, fits in fully with that principle. It even helps to extend it, and that is very good.

This confirms that the true power is in the hands of the chief justices. The institutional independence to which the Supreme Court refers is preserved and affirmed. I am, therefore, in favour of Bill C-30.

**Some Hon. Senators:** Hear, hear.

On motion of Senator Joyal, debate adjourned.

[English]

## APPROPRIATION BILL NO. 4, 2001-02

THIRD READING

**Hon. Anne C. Cools** moved the third reading of Bill C-51, for granting to Her Majesty certain sums of money for the public service of Canada, for the financial year ending March 31, 2002.

**Hon. John Lynch-Staunton (Leader of the Opposition):** Honourable senators, I wish to take advantage of the third reading to complete remarks I made yesterday on the report on Supplementary Estimates (B). The reason I did not complete them yesterday is because I did not have all of the information at hand.

My concern has to do with what happens to public funds transferred to a foundation in the event the foundation is dissolved. One would assume that the amounts left over, the balance of the grants from the government, would be returned to the public treasury. Unfortunately, such is not always the case. I will give three examples.

The first example is the Millennium Scholarship Fund that was granted a total of \$2.5 billion and is living off the interest on that amount. On the winding up or dissolution of the foundation, all of its property remaining after all of its debts and obligations have been satisfied shall be liquidated and the monies arising from that liquidation shall be distributed among all public eligible institutions to be used by them for scholarships, et cetera. The money is simply distributed at the discretion of the directors of the foundation. Not one penny is returned to those taxpayers who granted the money in the first place.

• (1520)

In the case of the Canada Foundation for Innovation, which at the end of March 2001 had \$3 billion, it is specified that in the case of dissolution or winding up, the money shall be distributed among all the eligible recipients that have received grants from the foundation and that are, as of the day the distribution begins, still carrying on research to be used by them for the purpose of that research. Again, at the absolute discretion of the foundation directors, at the time of dissolution, the monies do not return to the public treasury but are distributed to those who were given grants originally.

The last example is the Canadian Foundation for Sustainable Development Technology, which has been the subject of discussion here for some time. It only has \$100 million, so far, but it has the same clause, which will provide that, in the case of winding up or dissolution, the moneys arising from the liquidation, after all debts and obligations have been satisfied, shall be distributed among the eligible recipients that have received funding from the foundation. Therefore, if you were lucky enough to have received a grant 20 years before, the foundation is dissolved and any money left over is prorated among those who received grants. If you received funding 20 years before, then suddenly you are in receipt of a windfall.



The question is this: Why was provision not made for the balance of the funds, once dissolution takes place in any of these foundations, for that money to be returned to the Minister of Finance?

Another foundation I happened to look up is called the Asia-Pacific Foundation of Canada. In the event of its dissolution, after making adequate provision for the payment of its debts and liability, any balance shall be transferred to the Government of Canada and the governments of the provinces on a pro rata basis, having regard to their total contributions to the foundation. Why this model of the distribution of leftover funds was not used in regard to the other foundations, is a question someone will have to answer, I hope, before the National Finance Committee. I am happy to say — and I will boast about it — that the Asia-Pacific Foundation was created in 1984 under a Liberal government, and maligned as it might be, it did good things. One was to protect the use of public funds once their original purpose no longer existed.

Honourable senators, I bring this to your attention. The creation of these foundations is to take public funds away from Parliament's jurisdiction, authority and supervision. The distribution of these funds during the lifetime of the foundations is under the sole authority of their directors. Even worse, once these foundations are wound up, the monies do not return to the government, to the Canadian taxpayers, but are distributed at will. The situation is even more scandalous than I thought when I started looking at it originally.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## NUNAVUT WATERS AND NUNAVUT SURFACE RIGHTS TRIBUNAL BILL

### THIRD READING

**Hon. Charlie Watt** moved the third reading of Bill C-33, respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts, as amended.

He said: Honourable senators, yesterday, I received a phone call from Senator Adams, who is the sponsor of this bill. He wants me to ensure it moves forward after the committee has dealt with an issue that was holding us back.

Honourable senators, I rise to address you on third reading of Bill C-33, entitled the Nunavut Waters and Surface Rights Tribunal Act. On April 1, 1999, the map of Canada was redrawn for the first time in 50 years. The Inuit of the Eastern Arctic

effectively achieved self-government within a public government framework. As a result, there are enhanced opportunities for employment, and there has been the establishment of a new business, social developments and the protection of the ways of the past while embracing much of what the new economy has to offer.

These are exciting times for the people of Nunavut, but they are also challenging times. Many barriers stand in the way of economic growth and self-sufficiency in Nunavut. As well, a great deal of work must be done to ensure that the new territory has the legislative and regulatory framework needed to function effectively.

The passage of Bill C-33 will provide an important part of that framework. Bill C-33 will establish by statute the powers, duties and functions of the Nunavut Water Board and the Nunavut Surface Rights Tribunal. By providing legislative underpinnings for those two institutions of public administration arising out of the Nunavut Land Claims Agreement, Bill C-33 will provide certainty that decisions made by those institutions have a solid base in law. The work of those institutions will also ensure uniformity and certainty throughout Nunavut on issues related to resource management.

Passage of this bill will also provide certainty for industry. For example, it will set out clear ground rules for the issuance of water licences and for the enforcement of licensing conditions.

The Nunavut Land Claim Agreement had answered all questions about who owns the land and resources in the Eastern Arctic. We now need certainty and a consistent resource management regime, of which water management and surface rights are key elements. This certainty is critical if the new territory is to take advantage of its resource development potential.

In regions where unemployment is a long-standing challenge and where an ever-growing number of young people are looking for work, we must do everything possible to support sustainable development and job creation.

Honourable senators, Bill C-33 will provide another important element of certainty, that the residents of Nunavut will be heard on issues related to water, the environment and their communities.

I should like to remind honourable senators that we are not being asked to invent new institutions of government in Nunavut. The primary vision of the water board and the surface rights tribunal were established through the Nunavut Land Claims Agreement, and are performing the functions set out in that agreement. Both institutions are modelled on existing regimes that are working well in other parts of Canada. We are being asked to ensure that those institutions have the full backing of federal legislation and, in the case of a water board, the backing of federal regulations. That is absolutely essential if they are to do their jobs as envisaged in the land claims agreement.

• (1530)

We are also being asked to ensure that Canada lives up to the commitments that have been made to the Aboriginal people.

Honourable senators will also know that from time to time this chamber is asked to consider bills, such as Bill C-33, that contain a non-derogation clause regarding Aboriginal rights. At other times, we are asked to review other bills that may have an impact on regional issues but which do not contain a so-called non-derogation clause. One might be lead to question why such clauses are required in the first place if this chamber cannot agree to remove such a clause.

The Minister of Indian Affairs and Northern Development has provided us with a response. In a letter dated February 4, 2002, the minister informed the Standing Senate Committee on Energy, the Environment and Natural Resources that the purpose of non-derogation clauses has neither been to diminish nor to enhance the constitutional protection of the rights given to Canada's Aboriginal peoples.

Honourable senators will know that it is not possible for a bill such as Bill C-33 to affect this protection — to do so would require a constitutional amendment. In fact, those clauses are meant to be declaratory. They signal to the reader that Aboriginal peoples have protected rights under our Constitution, rights that must be taken into account in exercising legislative authorities. However, as I have previously indicated, they were never intended to impact in any way upon the protection provided to the Aboriginal people by the Constitution Act, 1982.

The minister also explained that generally those clauses are included in bills at the request of Aboriginal peoples who may be affected by the bill. They may take some comfort from having the existence of the constitutionally protected rights flagged by such a clause in the text of the bill.

When Bill C-33 was studied by the committee, the witnesses spoke favourably about its substance. The Mining Association of Canada, for example, indicated that it is an important bill that will facilitate economic development in Nunavut and encouraged senators to support it at the first opportunity. However, a number of witnesses, including Nunavut Premier Okalik and a representative of Nunavut Tunngavik Incorporated, were dissatisfied with the wording of the non-derogation clause. In fact, in his appearance before the committee on December 10, Premier Okalik suggested that he would rather see the bill die on the Order Paper before it proceeded with the existing non-derogation clause. He asked that the clause be removed or replaced.

Honourable senators, the situation we face may be summed up as follows: We have a bill, the positive benefits of which are not in question; the bill contains a clause that has been designated to do nothing more or less than flag Aboriginal rights which are already enshrined in our Constitution; and that clause was

designed to provide a comfort to the Aboriginal people of Nunavut, but clearly they feel that it fails to do so.

Given the circumstances of this particular bill, the situation, I am sure honourable senators will agree, was straightforward. Our committee amended the bill by removing the non-derogation clause.

With your support, honourable senators, I am hopeful that our message to the other place that we have amended this bill will be a welcome one and that the bill, as amended, will be adopted quickly so that the people of Nunavut can begin to enjoy, and profit from, its benefits. This is clearly an important piece of legislation for the people of Nunavut.

**Hon. Janis G. Johnson:** Honourable senators, I rise today to add my own and my party's support to Bill C-33.

Although some difficulties with certain clauses were identified by Nunavut Tunngavik Incorporated, and argued quite eloquently by Premier Paul Okalik of Nunavut, my party believes that the most important of these was dealt with in the amendment that was passed in this chamber yesterday. In hopes of a speedy passage of this important bill, I will make my comments brief.

Honourable senators, speedy passage of this bill will help to stabilize the natural resource development of Nunavut. As the Standing Senate Committee on Energy, the Environment and Natural Resources heard from mining industry officials, there is great commercial interest in this area and considerable surveying and exploration have been done. However, without the stability that Bill C-33 brings by clarifying the mandate and powers of the water board which licences mining development, exploration is as far as the industry is likely to go. No company will take the chance that its licence will be questioned at some point down the road or even invalidated after it has invested valuable time and capital in a Nunavut enterprise.

Although Nunavut did post a budget surplus last year thanks to additional federal funding, this state of affairs is unlikely to last if the territory cannot kick-start or at least facilitate the development of dependable, stable jobs for its people, the opportunity for which lies in developments such as those the mining industry would like to propose.

Nunavut's remoteness disadvantages it economically. It has one thousandth of Canada's population spread over one fifth of the country's land mass. Iqaluit, the biggest city, has just over 4,000 citizens. Goods imported from the south, goods we take for granted in our everyday lives, such as milk, fruit, cloth, glass and wood, the basic building blocks of mainstream society our predecessors worked so diligently, and probably so misguidedly, to establish in the North, are at least twice the price they are here — this, in a territory whose unemployment rates are rivalled only by its suicide rates. We know there are great obstacles to economic development in the North, and it is important now to move forward into the development prospects that await below the soil.



I should like, however, to reiterate my earlier caution to the Nunavut Water Board as it takes its newly legislated mandate. This involves a larger perspective, one in which we are all implicated and in which we will have to rely on the water board's good judgment. Natural resources, water in particular, in Canada are precious. Water in the world is precious. As we plunge headlong — and it would seem sometimes blindly — into this new century, we need to be more cautious than our predecessors, only 50 years ago, would ever have dreamed. We know these resources are finite, as is the life they support. Since time immemorial, Inuit hunters have depended on this wildlife for their own survival. It is critical, in a land where milk, beef and fruit are sometimes hard to afford, that Nunavut's land and ocean wildlife stocks remain vital. They are truly manageable, renewable resources upon which the Inuit have depended for thousands of years.

• (1540)

However, their survival and their usefulness to the people of Nunavut depend on the judicious management of the land that supports them. Poisons in water can be passed through consumption of animals and fish that consumed it, as we are seeing in the increasing levels of mercury contamination in our oceans' wildlife. Critical habitat lost due to bad management practices can rarely be replaced. I encourage the water board to continue to take its environment management role very seriously.

As to the amendment, honourable senators, that was made in these chambers yesterday, and I applaud my fellow senators. The amendment provides a measure of comfort and security to the people of Nunavut in its assurance that the government is not trying to open a door to any possible justification of the derogation of the rights for which they waited so long and fought so hard to have recognized.

In conclusion, I express my hopes for a quick passage of this welcome bill. It will no doubt prove the boon to our newest territory that we perceive it to be.

Motion agreed to and bill, as amended, read third time and passed.

## BUDGET IMPLEMENTATION BILL, 2001

### THIRD READING—MOTION IN AMENDMENT—VOTE DEFERRED

**Hon. Anne C. Cools**, moved the third reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

She said: Honourable senators, I rise today to speak to third reading of Bill C-49, known as the Budget Implementation Bill.

Honourable senators, this bill is part of Minister of Finance Paul Martin's December 2001 budget. Bill C-49 provides the

measures that he introduced and proposed to address the immediate concerns of Canadians for their personal and economic security following the tragic events in the United States of America, what the Americans now call 9/11, together with the measures that build on the government's long-term plan for a stronger economy and a more secure society.

Honourable senators, Bill C-49 is divided into six parts. Of the six parts, four parts will be individual acts, which is a little unique. The four acts the bill creates are: the Canadian Air Transport Security Authority Act, the Air Travellers Security Charge Act, the Canada Fund for Africa Act and the Canada Strategic Infrastructure Fund Act.

Honourable senators, we are all pretty clear that Bill C-49 creates the Canadian Air Transport Security Authority to deliver enhanced security services at Canadian airports and introduces the air travellers' security charge to finance and to fund these measures. It is the intention and the hope of the government that both of these measures will come into effect on April 1, 2002.

Honourable senators, this new authority will be responsible for delivering a number of key air transport security services. It will be required to demonstrate that consistent, effective and highly professional service is being delivered at or above the standards set by federal regulations. Is important that honourable senators understand that Transport Canada will continue to regulate the provision of security services.

Honourable senators, the primary job of the authority will be to provide efficient, effective and consistent screening of people and their belongings with access to aircraft or restricted areas in designated airports. The authority will be empowered to recruit and deploy its own screening officers, enter into arrangements for local delivery through security organizations or to authorize airport operators to provide these services. Regardless of who employs them, all screening contractors and officers will have to be certified with the Canadian Air Transport Security Authority. This approach to screening provides the benefit of flexible delivery mechanisms and sensitivity to local needs by creating consistency across the system. Making use of a variety of mechanisms, the authority will be able to put in place a well qualified and well-trained workforce.

Honourable senators, in addition to certification and pre-board screening, the authority will be responsible for the acquisition, deployment and maintenance of screening equipment at airports, including explosive detection systems, contributions for airport policing related to civil aviation security measures and contracting with the RCMP for armed officers on board aircraft.

Honourable senators, I want to be crystal clear and articulate on that point again today because yesterday, at committee, some witnesses from the Airline Pilots Association did not seem to be clear on that particular fact.



With this new authority in place, Canadian air travellers will benefit from effective, efficient and consistent screening at airports. Further, the new Air Travellers' Security Charge will fund these new air security expenditures and help Canada maintain and improve on its record of having one of the safest aviation systems in the world in the years to come. This new charge will be paid by air travellers, the main beneficiaries of the new measure. The charge will apply to flights connecting airports in Canada where the Air Transport Security Authority will be responsible for passenger screening and where security enhancements are planned. All proceeds from the air security charge, including net GST, will be used to fund the enhanced air travel security system.

Honourable senators, as I proceed in my remarks, I will address some of the questions that were raised at our committee hearings, particularly in respect of two aspects of the bill. Many honourable senators raised questions, as did many of the witnesses. There is no secret that many senators were deeply concerned about the level of the air security charge, particularly the quantum, and many senators wondered about how and why the cabinet had arrived at that particular quantum. In particular, Senator Ferretti Barth raised this question repeatedly. I want to give all honourable senators a full insight into what transpired in the committee and the very deep concern of senators. It is important that the record should be clear that senators agreed to pass Bill C-49 in the sincere belief that the bill itself contains provisions to reduce the charge and that the responsible minister has undertaken to review the charge in the fall. The record here should reflect these facts as they occurred in committee.

I would like to begin with a short account of the Standing Senate Committee on National Finance meeting of Wednesday, March 20, 2002, at which the Honourable John McCallum, Secretary of State for International Financial Institutions, and the Honourable David Collenette, the Minister of Transport, appeared. I would like to let honourable senators know that the two ministers were very open and candid, and quite receptive to senators.

During the hearing, the ministers gave assurance that, in the fall, the entire matter would be reviewed. They assured that, during this fall review, they will be looking at the question of the charge.

I quote from the transcript of the committee meeting of March 20, 2002. Minister John McCallum said:

• (1550)

The government is absolutely committed to review this measure in the fall. If it appears at the time of this review that the revenues are likely to exceed the expenditures over this period of five years, then the government is committed to take action to reduce the charge.

Honourable senators, we are not naive in our belief in the minister in this important undertaking, because this undertaking, accompanied by a provision in Part 1 of Bill C-49, being

clause 12, gives the minister the powers to reduce the charge. Honourable senators have taken the minister at his word.

Moving on to another important consideration, a question was raised by honourable senators in respect of what we call, in the vernacular, "organized labour." Mr. Lawrence McBrearty, National Director of the United Steelworkers of America, appeared before the committee. Mr. McBrearty expressed the view to the committee that the United Steelworkers of America are concerned about the membership and the composition of the new board of directors of the new authority, as well as the question of successor rights. They are concerned that their union members could face uncertainty about their jobs and, thus, their job security.

These steelworkers requested that the bill be amended. However, the committee was unable to reach agreement on such an amendment because of sharp disagreement among the members of the committee over the composition of the board.

In any event, I was able to personally undertake communication with the Honourable Minister of Transport, David Collenette, to secure the undertaking that he made before the committee, in the form of a letter.

Honourable senators, this letter is addressed to the Chairman of the Finance Committee, Senator Lowell Murray, who will speak to this issue in a few minutes. I thought I would quote from the letter and leave it to his proper task as chairman of the committee to read the letter in its entirety. The letter, dated today, March 26, is signed by the Honourable David Collenette and addressed to Senator Lowell Murray, the Chairman of the Standing Senate Committee on National Finance. In his letter, the minister said:

Dear Mr. Chairman:

I am writing regarding the composition of the board of directors for the Canadian Air Transport Security Authority.

In the third paragraph, the minister said:

The seven federal government directors appointed by the Governor in Council will represent the interest of all Canadians. Among the seven directors, I will recommend to the Governor in Council, after consultation with organized labour, the appointment of at least one person that is sensitive to the goals of labour unions.

Honourable senators, allow me to repeat the minister's undertaking: "Among the seven directors, I will recommend to the Governor in Council, after consultation with organized labour, the appointment of at least one person that is sensitive to the goals of labour unions."

I understand that the remainder of the letter will be read into the record by our chairman, Senator Murray. However, I thought honourable senators should know that their confidence in the government is well placed.

Yesterday, when I sat in that committee, I undertook to discuss this matter with the minister, and I followed through on that commitment. I spoke with the minister at about nine o'clock this morning and he promised that this letter would be in our hands for today's sitting of the house. For that, I am certain all honourable senators thank Minister Collenette.

Honourable senators, I will move on to another matter that was raised at the committee by witnesses from the Air Transport Association of Canada, Mr. Clifford Mackay, President and CEO, and Mr. Ward Everson, Vice-President. Their concerns were interesting and bore merit, and spoke to the question of amortization of the equipment of the authority. In respect of that, Senator Murray received a letter from yet another minister, the Honourable John McCallum, Secretary of State for International Financial Institutions, who said:

Dear Senator:

I am responding to an issue raised before the Committee on National Finance in the submission of March 18, 2002 from Mr. J. Clifford Mackay...In its submission, ATAC requested that Bill C-49 be amended to enable the Authority to amortize its spending on security equipment over the life of the assets and to borrow to fund the acquisition of such assets.

Let me begin by saying that the capital expenditures of the Authority will in fact be amortized by the Authority in its books and records over the useful life of the equipment. This is consistent with how Crown corporations account for their capital acquisitions and with generally accepted accounting principles used by most private corporations. The Authority will also enjoy all of the powers of a natural person, including the power to borrow.

That power to borrow had been one of their concerns as well, honourable senators. The letter continues:

There is therefore no need to amend the legislation to address either of these matters.

Honourable senators, that was the minister's response to yet another particular concern raised by committee members. I am certain that honourable senators want to debate these questions.

The rest of Bill C-49 addresses such issues as the Strategic Infrastructure Fund, the Africa fund, amendments to employment Insurance Act and to the Income Tax Act. In general, it goes a long way to addressing the initiatives that Minister Paul Martin had introduced in the December 2001 budget.

Honourable senators, I will take my seat and allow Senator Murray to speak to this bill.

**Hon. Lowell Murray:** It is always impossible to resist an opportunity or invitation that has just been extended by Senator Cools, Deputy Chairman of the Standing Senate Committee on National Finance. Honourable senators, I thank her for

documenting so well the work of our committee, albeit with her own spin and interpretation of its deliberations. However, as to the factual statements, there can be no argument. I think that her summary of the letters that I received from two ministers of the Crown, which have been circulated to members of the committee, is sufficient for our purpose this afternoon. I will not take your time by reading the letters into the record. I would ask leave, however, to table them in both of our official languages. One letter is from the Minister of Transport. It is undated but I received it today. The other letter is from the Secretary of State for Finance, Mr. McCallum, and it is also undated. They seem to lose track of time over there.

• (1600)

**The Hon. the Speaker *pro tempore*:** Is leave granted, honourable senators?

**Hon. Senators:** Agreed.

**Senator Murray:** Honourable senators, now that the committee deliberations are over, I should tell you that we had three meetings totalling eight hours on this bill and heard from nine witnesses or organizations, which gave us a full range of perspectives on the bill.

Apart from the two ministers who appeared, none of the other witnesses had a good word to say about the bill. Indeed, my own observation as a result of these deliberations and this study is that this bill bears the unmistakable mark of improvisation. I will not go so far as to use the French expression "improvisation en catastrophe," but improvisation it is. Not only the bill but also the government's defence of it is, to put it mildly, somewhat confused and ambivalent.

As Senator Cools has indicated, not only is there considerable indignation in the country about the quantum of the air security charge, but there are also very serious second thoughts taking place within the government as to the quantum and the design of this tax; so much so that not long after it was announced, the Minister of Finance, Mr. Martin, gave an undertaking, repeated today by Senator Cools, that eight months hence it is back to the drawing board with this fee. Short of withdrawing it and making a change now, this is about as far as he felt he could go. As I say, it is obvious that there are second thoughts within the government about the quantum and the design of the fee.

Another issue to which Senator Cools has referred, and which is dealt with to some extent in the letter from Mr. Collenette, which I just tabled, deals with the representation of front-line workers on the board of the new agency. There is a bit more history to this than Senator Cools let on. When this bill was before the House of Commons committee, that committee passed an amendment that would ensure labour representation on the board. Unfortunately, when that amendment got to the House of Commons, it was defeated by the government majority. Therefore, one can easily understand the concern of the workers themselves and of their representatives.



When he came to the committee, Mr. Collenette made the statement to which Senator Cools has referred, to the effect that in appointing the Governor-in-Council representatives to this board, the government would be "sensitive" to labour concerns, or something of the kind. Given that the amendment that would have guaranteed representation by labour on the board had been defeated in the House of Commons, Mr. Collenette's talk of sensitivity was not such as to reassure the workers or their representatives very greatly.

We now have a letter from the minister, to which reference has been made, in which he does undertake to consult with the labour unions. I presume that consultation will take place with a view to appointing to this board a representative of one of the unions that is in place.

Another issue to which Senator Cools alluded has to do with successor rights. This matter was raised by our friend Senator Lawson when Mr. Collenette was before us on March 20. The question was raised as to whether, if the new authority directly employs security officers, public service unions would represent those people and whether there would be successor status. Mr. Collenette agreed that there were no successor rights. There is the other alternative, that being that the authority would hire security firms which themselves would engage other firms, perhaps under contracts. There again, there are no successor rights. Labour has been looking for some kind of "deemed sale of business" clause in order to ensure some rights for those who are or might be members of a union at those airports.

I will not say that Mr. Collenette was at all stubborn or difficult about it. In fact, he said that he would have to defer to Senator Lawson's greater experience and knowledge in labour relations. I got the clear impression, however, that the issue had not really been thought through by the government, and that is such as to give us cause for concern. That is why I come to the conclusion that there is much improvisation involved in this bill.

I understand the pressing circumstances under which this legislation has been put together and why the government believes there is some urgency to all of this. However, if I may be so bold as to offer a caution to the government, this issue of security at the airports and the sense of security of the travelling public is extremely important. We cannot allow a situation to develop in which the airports become a cauldron of bitter labour relations strife. I cannot think of anything that will be more likely to alarm the travelling public and to undermine their sense of security.

As the government prepares to go back to the drawing board on the quantum and the design of this fee, they ought to get busy on these labour relations issues and look ahead and try to solve some of these problems before they rise up and confront us.

There is a Department of Labour in the government. Through my observations around here over a great many years I have learned that this is a small department comprised of very competent and experienced people. They are good at their work.

[ Senator Murray ]

It would be very important for the other departments of government that are involved — notably the Department of Transport — to take advantage of the expertise and experience that exists in our own federal Department of Labour and to get advice on some of these issues. These people have a long nose for trouble; they can see it coming.

• (1610)

Their advice and, if possible, their good offices ought to be used to ensure that this authority gets off to a good start and that the labour relations climate is not poisoned unnecessarily by a casual or careless attitude — as often occurs on labour relations matters in other parts of the government such as Finance and Treasury Board where, frankly, they are not as sensitive as they might be to these considerations. Enough said on that point.

I would like to raise one other issue relating to the establishment of the Canadian Strategic Infrastructure Fund in Part 6 of the bill. I was quite interested in this when I read the bill and when we had the officials before us. This is legislation that we are about to enact "to establish a program to provide contributions for the carrying out of strategic infrastructure projects." Part 6 of this bill then goes on to state that "strategic infrastructure" means the following:

- (a) highway or rail infrastructure;
- (b) local transportation infrastructure;
- (c) tourism or urban development infrastructure;
- (d) sewage infrastructure;
- (e) water infrastructure; or
- (f) infrastructure prescribed by regulation.

The bill goes on to state that the following are eligible recipients: provinces, municipalities or regional governments; a public sector body established by or under provincial legislation under certain circumstances; private sector bodies that carry out or, in the opinion of the minister, are capable of carrying out an eligible project, et cetera.

I am coming to a matter that I raised with the officials, which is whether it would be possible to include universities and post-secondary institutions as eligible recipients under this fund. Honourable senators will recall that, in October 2001, the Standing Senate Committee on National Finance brought down a report on the role of government in the financing of deferred maintenance costs in Canada's post-secondary institutions. Our study heard evidence from the Canadian Association of University Business Officers to the effect that some \$3.6 billion in deferred maintenance has to be undertaken at Canadian universities and post-secondary institutions. This is a very serious problem that is obviously not within the financial capacity of most of our institutions and, indeed, is a very great burden on most of our provinces. It occurs to some of us that here is an ideal opportunity to assist universities to tackle some of these serious capital costs that they must bear. Senator Moore got the committee working on this issue a year and a half ago, so he may have something to say.



When Mr. Robert Hilton, Senior Program Advisor, Office of Infrastructure and Crown Corporations Canada appeared before us, I asked him whether universities and post-secondary education would be included and he stated:

I cannot answer that question at this time. Cabinet must vet the terms and conditions. Until we get clarification from them, we will not be able to specifically identify whether or not post-secondary education will be included as part of this.

I know the responsible minister, Mr. Manley, is not in town at the moment, and therefore we cannot expect a political commitment from officials. Nevertheless, my reading of this bill suggests very clearly to me that there is nothing in this bill that would preclude making post-secondary institutions eligible. After all, among the definitions of "strategic infrastructure" is paragraph (f) which is "infrastructure prescribed by regulation." One would assume that the Governor in Council would have the power to list post-secondary institutions under that rubric, and later on under the provision that various bodies established by provincial legislation can be made eligible.

Before we pass this bill at third reading, if that is what we will be doing, I would like to receive a message from the officials confirming that there is nothing in this bill that would preclude universities and post-secondary institutions from eligibility. If they want to confirm that this can be done by regulation, by Order in Council, that will be fine with me. If they want to insist that it is a matter that would have to have the approval of the provinces first, that is fine with me. I would like to see in writing some clarification of this situation, because it will be extremely valuable if post-secondary institutions could be made eligible as possible recipients under this infrastructure fund.

When this government has talked about infrastructure, it has not just talked about roads, sewers, sidewalks and so on; it has taken a rather broader definition of what infrastructure is. Indeed, in the October 1999 Speech from the Throne there was a reference to an infrastructure initiative for Canada that would include knowledge, information, cultural and physical infrastructure. Honourable senators, our post-secondary institutions would obviously qualify under that definition.

While I do not expect a policy commitment from officials, surely they can give us — perhaps by letter to the sponsor of the bill, Senator Cools — some clarification to the effect that there is nothing here that precludes post-secondary institutions from being recipients and that that could be done by regulation.

**Senator Cools:** Honourable senators, I anticipated Senator Murray's question and I did obtain an opinion. I tried to communicate with Mr. Manley directly, but apparently Mr. Manley is out of town. However, I was able to secure what I thought was a most convincing —

**Senator Kinsella:** What rule are you following today?

**Senator Cools:** Senator Murray has raised a question. The frequent accusation is that the government will not answer, so I

thought that, by showing my willingness to answer, that response would be satisfactory.

What I was saying is that in anticipation of questions by honourable senators, because earlier today Senator Moore had sent me a note, I attempted to speak with Minister Manley himself. I was unsuccessful. I was able to discover —

• (1620)

**Senator Kinsella:** Order, please!

**Senator Cools:** — that universities are, in point of fact, eligible recipients under this fund. If we were to look at clause 2, at pages 110 and 111, and if we were to look at clauses —

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, we went through this yesterday. We did not raise the point of order. Consequently, we ended up not having an opportunity to have a bill that was before us properly adjourned. Honourable senators will recall that yesterday the debate in which Senator Cools participated was the debate on the report from the Standing Senate Committee on National Finance. The honourable senator closed the debate and His Honour got up and pointed out that should the Honourable Senator Cools speak on the report, it would have the effect of closing the debate.

**Senator Cools:** No, no!

**Senator Kinsella:** That was proper. The Honourable Senator Cools then spoke, the debate was over and the report was adopted.

We then moved on to Bill C-51. Senator Cools got up and moved the adoption of second reading of Bill C-51. She then sat down and, as Senator Tkachuk attempted to move the adjournment motion, Senator Milne rose and said "Oh, no, Senator Cools has closed the debate." We then rose and attempted to say that that is not what happened. The debate was closed at the report stage; we were on the bill stage.

At any rate, honourable senators, we have learned a lesson. The lesson is that we will follow the rules very strictly and very carefully. Senator Murray has spoken. Unless there is a question asked and he agrees to answer it, the debate continues. Although Senator Cools is attempting to speak in the debate, we have other speakers. We want to make that clear. Although His Honour has not warned us that should she speak it would close the debate, we do not want that to happen. We wish to speak. We do not know what rubric Senator Cools is speaking under, but we prefer that the *Rules of the Senate* be followed.

**The Hon. the Speaker pro tempore:** In my opinion, Honourable Senator Kinsella is correct about yesterday. The Honourable Senator Murray asked a question. I then recognized the Honourable Senator Cools to answer that question. Following that, I was going to recognize the Honourable Senator Tkachuk. She is answering a question.

**Senator Kinsella:** Under what rule is this occurring?

**The Hon. the Speaker *pro tempore*:** She is not a speaker.

**Senator Kinsella:** Under what rule?

**Senator Robichaud:** This is on a comment following a speech.

**Hon. David Tkachuk:** Honourable senators, I will spend several minutes on Bill C-49, in particular, the aspects of the bill that cover the Air Travellers Security Act and the Air Travellers Security Charge.

I was not a member of the committee that studied the bill, but I am always suspicious of governments when they use the opportunity of chaos and insecurity to present a bill in a rush, which is what this government has done with Bill C-49. The government imposed what can only be called a tax on the Canadian people and a tax on the travelling public.

It may not seem like a lot of money, but it is \$12 there and \$12 back: \$24 a trip, return. For example, in the airport in Saskatoon, if 100 people leave on one plane, that is \$2,400. In the Saskatoon city airport, we only have two venues for security. We have four people on one side and four people on the other side. We are only open from 6:00 a.m. to probably 11:00 p.m. or 12:00 p.m. at night, 18 hours a day. That is only one plane. Actually, in Saskatoon we have planes that carry more than 100 people. On planes that will carry 200 people, the government will make \$4,800 from the travelling public. How much do they pay these people anyway? What are we buying for the airport? This is one plane in the city of Saskatoon.

The Government of Canada used to actually fund airports. They used to fund controllers. They have abandoned all of that. They gave them all away. We could not sell them, of course. That might be bad because someone might make a profit. We cannot have that, so they gave them away to the municipalities. It is one government to the other and it is all out of the same pocket, yours and mine. It is this pocket. Right here. That is where it comes from. So, they abandoned it.

That is fine, too. I cheered that on. I thought that was all right. However, after it was over I did not hear the Minister of Finance saying that the government no longer has to spend the \$800 million to \$1 billion a year on airports, on airport security and on air traffic controllers because air travellers are paying for it now at the airports, at a cost of \$10 here or there. There are costs to operating and maintaining airports and recapitalizing to build airports. The government is charging people in Toronto, in Calgary, in Kelowna and everywhere to pay for airports which Canadians are already paying in tax. The airlines must pay for the controllers, so they charge higher ticket prices so that they can pay them.

That is the way it works. The Minister of Finance did not say to us, "Thank you, Canadian public. We got rid of all that

expense and we will give you tax deductions to make up for all that money we have spent on transport, on airlines and on airline security." It amounts to billions and billions of dollars of taxpayers' money that they have abandoned. We are all paying out of our own pockets, and now the government is saying, "We have a problem with airport security because of the September 11 tragedy."

It is amazing how governments can pass on the problem as a result of what happened on September 11. It was not a failure of airport security in Boston. Box cutters were legal. We are told that this security authority will be an efficient, effective and consistent, unlike those terrible non-unionized employees currently at airport security. That is a government misnomer. It is a misnomer that we would have solved the problem if we had only paid union employees big money. We all know what happened on September 11. If honourable senators have been reading as I have — and I have read a massive amount of stuff about September 11 — they will know that the events of that day were not due to the failure of airport security. We are now told by this bill that airport security will ensure that air travellers are not blown up with explosives and killed with guns. That is what they are supposed to be doing. That is what they have been doing. That is what they are doing now. We should not have any guns or explosives. If there is a problem with that, we should have known about it long before September 11 because that is what airport security personnel have been checking for over the last couple of decades. There was never a problem before. September 11 rolled around and some people brought box cutters on to airplanes. It was the failure of air transport officials to say that box cutters should be an illegal item. They let the box cutter pass through.

Who failed those passengers and those 3,000 people in the World Trade Center? I will tell you who failed them. The union employee who was at the ticket counter saying, "Glad to take your cash for a one-way ticket all the way to Los Angeles. That is nice. Are you just going one way, paying with cash? No luggage? That is fine, too." Pretty quick. Pretty bright, that lady or that man — whoever it was at the ticket counter — who was a well-paid union employee and an airline official. It was not the people in security who caused the problem.

• (1630)

What happened to the CIA? What happened to CSIS? What happened to the military? Planes are flying up in the air. How long did it take that jet in the United States to climb up there to protect what happened at the Pentagon? It was not the non-union employees at airport security who failed the American people; it was the government and the people at the airline ticket counter. We are told that for a simple \$12, we will be safe. Do not believe it. I am petrified that the same people who were in charge before, will be in charge of airport security again. It will be the same people who caused the problem who will now be in charge, and they are trying to tell us that if we pay the money, we will be safe.



I hate to see governments use chaos and fear as a tool. Instead of addressing the issue properly, assessing it and taking the time to find out what actually happened, there will be a rush to pass this bill, just as there was when we passed Bill C-36. We are forced to accept this, and the Canadian people must pay for it.

Honourable senators, this is a terrible bill, it is a terrible burden on the paying public and it will not solve the problem, just as Bill C-36 did not solve the problem of refugees not being dealt with properly. We know that 20,000 refugee claimants are lost in the system. Now we are told that, for a simple \$24, the airport security problem will be solved. I do not think so, honourable senators.

I move an amendment to delete that clause and eliminate the \$24 fee.

#### MOTION IN AMENDMENT

**Hon. David Tkachuk:** Therefore, honourable senators, I move:

That Bill C-49 be not now read a third time but that it be amended

(a) on pages 13 to 76, by deleting Part 2;

(b) by renumbering Parts 3, 4, 5 and 6 as Parts 2, 3, 4 and 5 and any cross-references thereto accordingly; and

(c) by renumbering clauses 12 to 47 as clauses 5 to 40 and any cross-references thereto accordingly.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

**The Hon. the Speaker:** Once again, honourable senators, is the house ready for the question?

**Hon. Senators:** Question!

**The Hon. the Speaker:** Will those honourable senators in favour of the motion in amendment please say "yea"?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators opposed to the motion in amendment please say "nay"?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the "nays" have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

Is there agreement between the whips as to the ringing of the bell?

**Senator Rompkey:** I propose a 30-minute bell.

**The Hon. the Speaker:** Call in the senators.

• (1700)

Motion in amendment negated on the following division:

#### YEAS THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Keon
Beaudoin	Kinsella
Comeau	Lynch-Staunton
Di Nino	Murray
Eyton	Tkachuk—13.
Johnson	

#### NAYS THE HONOURABLE SENATORS

Austin	LaPierre
Banks	Lapointe
Bryden	Léger
Carstairs	Losier-Cool
Chalifoux	Maheu
Christensen	Mahovlich
Cook	Milne
Cools	Moore
Corbin	Morin
Cordy	Pearson
Day	Pépin
De Bané	Poulin
Fairbairn	Poy
Ferretti Barth	Robichaud
Fitzpatrick	Rompkey
Fraser	Stollery
Furey	Taylor
Gill	Tunney
Hubley	Wiebe—39
Joyal	

#### ABSTENTIONS THE HONOURABLE SENATORS

Nil.

**The Hon. the Speaker:** Honourable senators, we now resume debate on the main motion.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in rising to participate in the debate at third reading of Bill C-49, I should like to commence by giving some focus to the part of the bill dealing with the Canada Fund for Africa.



• (1710)

At second reading I indicated my support in principle for this program. I should like to underscore again my support for the principle of Canadian participation and setting aside designated funds for that part of the world community which needs this kind of assistance from developed countries, particularly a country that is a member of the G8 nations. This bill is going in the right direction.

I have raised my concern at second reading and in committee. Unfortunately I did not receive very satisfactory answers so I will raise it here again at third reading. It relates to the issue of better control over aid money given to Africa. The record is full of examples of Canadian foreign aid going to various countries on that continent that is not targeted sufficiently enough. For example, if one considers the global tragedy of AIDS that has been unfolding before our eyes, it might well be a time for us as Canadians to become even more specific in the setting aside of funds for Africa. Funds could be targeted to combat AIDS through support for programs that seek to prevent the spreading of that horrible disease as well as through support for the research necessary to find a complete cure.

The second concern I have with reference to the Africa Fund is that no program evaluation is associated with this program in the bill. We put this question directly to the officials who appeared before the Standing Senate Committee on National Finance and received a fairly circuitous response. There should be a professional evaluation or auditing of where the money goes and how it is supervised. We should have complete accountability. Also included in the program evaluation should be some assessment of the results. Objectives need to be set for the money that we send to a given country in Africa and results measured to determine whether the objectives were actually achieved. That is missing from the bill. It is a major weakness.

With reference to the first two parts of Bill C-49 dealing with air travel security, I have a fundamental problem that permeates my analysis of this entire piece of proposed legislation. It is simply this: I believe that air security is a societal responsibility. Therefore, government has the prime responsibility to deal with air security. It is not something that should be left to the private sector; it is not something that should be left to an arm's length organization.

The government has a role to play in a number of areas of societal life and, in the world of the 21st century, I believe that air safety is one of those areas for which the state should have direct responsibility. When honourable senators reflect on the circumstances that gave rise to this bill and consider that if, as the government is attempting to argue, this should be a user-pay air safety system, it simply does not stand on a solid foundation. The safety of planes flying overhead is not only of great importance to those in the aircraft but also to those on the ground over which the airplanes fly.

When one considers the horrific loss of life on September 11, it was the people at the Pentagon or in the World Trade Center

who were most affected by the lapse of air safety. That is a concrete example that air safety is not something with which only passengers are concerned. Therefore, the argument that only the passengers should pay for this enhanced air safety does not seem to rest in solid public policy principles, in my view.

Second, honourable senators, when we consider the detail of the method that the government is employing — and we have just taken a decision to not expunge this clause from the bill — why do we not consider doing with the bill what the ministers who appeared before the committee seemed to be suggesting? For example, we heard from the ministers that the amount of money they need to operate this system was calculated. They calculated the number of people who were flying, and that is how they came up with this \$12 per screening and \$24 for the roundtrip screening. They then recognized that air traffic has picked up significantly since the early days after September 11. They indicated that if they used the numbers of people who are emplaning today, they would generate much more money than required and, therefore, the charge of \$12 for screening could be reduced.

There also seemed to be some concern as to how long it would take to set up this new authority and how long it would take for the authority to establish norms or regulations. Many travellers today, maybe some in this chamber, would be able to give testimony that there does not seem to be any common standard of pre-screening for passengers who emplane in Canada. It seems to me that the government should take the time to articulate these standards. If they wish to use this model of a special authority to manage the program, then the new authority should not be the one setting the standards. The Department of Transport should be the one to determine those norms.

In our common will, we have many normative issues to consider that may clash with each other. For example, public health issues cannot be compromised by a pre-screening norm. I give the example of a passenger changing air terminals at Pearson International Airport. If you go via the tunnel, you might well be required to take your shoes off, place them on the conveyor belt that goes through the X-ray machine, and they would end up way down at the other end. The passenger is standing in his or her stocking feet. The officials say, "Walk through." People glance at the floor hoping there is no broken glass there. The floor is filthy, in my layperson's assessment. It is bad enough for most men who might have thicker socks, but most ladies wear nylon socks, which are much thinner. A very serious health risk that is being compromised by that particular practice.

• (1720)

The illustration is made only to indicate that the Department of Transport should have done all of this standard-setting work that would take into consideration other kinds of norms. Other countries around the world have done it. The United States is doing it, and there is no reason why we should not do it.

From a technical standpoint, there is much merit in taking the time to have this new enhanced airport security methodology implemented. However, let us take the time to do it right.

This brings me to the charge of \$12 or \$24. In the testimony we heard at committee, apart from the principle enunciated a few moments ago, I was impressed by the questioning of our colleague Senator Ferretti Barth, which honourable senators can read in the committee transcript. It was so good that I wanted to put it on the record.

[Translation]

What Senator Ferretti Barth said when the two ministers appeared before the committee was this:

I am looking at the second part where you refer to additional air ticket costs. I represent the Italian community of Quebec, some 14,000 seniors who travel four times a year. Today, most travellers are seniors. Have you not given thought to the fact that in addition to the \$24 travellers will have to pay, they also have to pay airport taxes, for instance \$20 US to leave Cuba? These seniors have to count every penny and yet they see the price of their air tickets going up by close to \$100 in Canadian currency...

[English]

Someone mentioned yesterday that a family of four or five, having saved up for their summer holidays and planning to fly between two of the airports indicated in the schedule, have increased costs. For a family of five, all of a sudden, their ticket has over \$100 of tax added to it. There is something wrong about that.

Senator Ferretti Barth was on to something very sound when she focused on the issue of senior citizens. Indeed, it is the practice of the industry to provide a senior's discount in the selling of airline tickets.

I thought it was interesting that the airlines also have a discount for children who are travelling. There is a discount for the airline ticket for children under 12 years of age.

The point of purchasing of the ticket is the stage at which this tax will be collected. From a management standpoint, it would be very easy for an exemption to apply to persons who purchase a senior's ticket or a child's ticket.

#### MOTION IN AMENDMENT

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I would have preferred a different outcome from the one that we had a few moments ago. However, in light of the circumstances, I move:

That Bill C-49 be not now read a third time but that it be amended in clause 5, on page 14, by replacing lines 39 to 43 with the following:

ii) an individual under twelve years of age or sixty-five years of age or older.”.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** Yes.

**Some Hon. Senators:** No.

**The Hon. the Speaker:** Will those honourable senators in favour of the motion in amendment please say “yea”?

**Some Hon. Senators:** Yea.

**The Hon. the Speaker:** Will those honourable senators opposed to the motion in amendment please say “nay”?

**Some Hon. Senators:** Nay.

**The Hon. the Speaker:** In my opinion, the “nays” have it.

*And two honourable senators having risen:*

**The Hon. the Speaker:** Call in the senators.

Is there an agreement on the bell? If not, it will be a one-hour bell.

**Hon. Norman K. Atkins:** Honourable senators, I suggest that we have the vote tomorrow morning at 10:00, following a half-hour bell.

**The Hon. the Speaker:** The decision of the whips, in accordance with the rules, is that the vote will be deferred. It is further agreed between them that the vote will take place at 10:00 a.m. and that the bells will ring at 9:30 a.m. Is it agreed, honourable senators?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** The call for a vote stops further debate on Bill C-49 until we have dealt with the motion in amendment.

#### APPROPRIATION BILL NO. 1, 2002-03

#### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Taylor, for the second reading of Bill C-52, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003.



**Hon. David Tkachuk:** Honourable senators, I will spend a few minutes on Bill C-52. I tried to rise yesterday on Bill C-51, and I was ruled out of order, even though there was only one speech on that particular bill. Nonetheless, I will take the opportunity today to address a few of the issues that have arisen from Bill C-52 and related measures.

Senator Lynch-Staunton spoke about the Pierre Elliott Trudeau Foundation and that the federal government has chosen, again, to use a non-profit body to deliver programs. In this particular case, it was a somewhat dangerous precedent because the non-profit organization is, in effect, holding taxpayers' money for its future expenditures in the amount of \$125 million and is independent of the government. Once the money is transferred to the foundation, there is no way for Parliament to track the money.

• (1730)

I have been concerned about this process for some time, and I have spoken to the issue before, although not as eloquently as Senator Bolduc. By having agencies and non-profit organizations in place of departments to deliver government programs, Parliament is losing control of the public purse.

Honourable senators, some have said that this is a matter for the House of Commons because the Auditor General, as Senator Cools said, reports to the House of Commons and not to the Senate. We are parliamentarians and we should be concerned about these issues. This is not just a special case. It seems as though the bureaucracy and the government figured out that, by using agencies and non-profit organizations to deliver programs, parliamentarians would be unable to follow the money.

There is a reason for having a consolidated fund. Do honourable senators remember the days when all monies flowed into the Consolidated Revenue Fund? Hence the term "Receiver General," I suppose, because he received the cash; and the Minister of Finance spent the cash. There were parliamentarians and committees of Parliament to look after the cash and estimates, to deal with the issue of expenditures and to hold ministers to account. We no longer hold ministers to account, and we no longer have money deposited to the Consolidated Revenue Fund, in all cases. Thus, when one dollar is received at Parks Canada, we know only that it has gone to some agency called Parks Canada, which administers the parks. These agencies have presidents, vice-presidents and boards, thus likening them to the private sector. Governments are not the private sector.

Honourable senators, every time you go to a national park, reserve a place to stay overnight, and pay your fee of \$10 or \$15, that money disappears. Although it is public money, it does not go into the Consolidated Revenue Fund but, rather, it goes to the agency. The agency is now in a money-making business.

The Canada Customs and Revenue Agency is trying to convince us that it is an agency because it is so good at collecting money. The Canada Customs and Revenue Agency claims that it

collects money on behalf of other agencies, provincial and municipal.

We tried to point out that that would be a difficult sale to make. Honourable senators can see it now — a salesman for the Canada Customs and Revenue Agency goes to the treasury offices of a provincial government to talk about assisting in the collection of their cash. The official from treasury then goes to the tax collection agencies at the provincial sales office. You can see the bureaucrat blanch as he realizes that someone else will collect their money so that he will be out of a job. In addition, CCRA would collect a commission for their efforts. That is how bad it has become. That commission would then flow into the little agency that would produce an annual report.

Unlike a government department, it is becoming more and more difficult to follow the trail of money from all of these agencies and non-profit organizations.

Why do we need a group of non-profit organizations to deliver research grants? What do we want our large bureaucracy to do? Perhaps they want to escape the authority of the House of Commons and of Parliament; the clutches of the public service union; and the possibility that people will know how much money they are making as presidents of their little organizations, such as the Canada Customs and Revenue Agency.

The Trudeau foundation is an interesting set-up. They have actually taken \$125 million and transferred it to a private foundation. You would think that the Canadian Federation of Students would be happy about that, but they were not. They are on to them. They said that the Pierre Elliott Trudeau Foundation introduced today by Minister Allan Rock is a misguided attempt to guide social sciences and humanities scholars in Canada.

These funds should have gone straight to the Social Sciences and Humanities Research Council, which we already have, and that body could well administer these funds; but, no, we give them to someone else, and then we lose, in this case, all control of the money.

It was also said by Mr. Ian Boyko, National Chairperson of the CFS, that the federal government must provide more than just a token recognition of the role of social science and humanities research will play in the innovation strategy, and that equalizing the funding between the research councils needs to be the first step. The University of Toronto newspaper also criticized and called into question the Trudeau foundation.

The *National Post* carried an editorial saying that the Canadian Federation of Students and the *National Post* were both "left." Although the Canadian Federation of Students is recognized by the independent University of Toronto newspaper as being left-wing and the *National Post* as being right-wing, they both agreed that the Trudeau foundation fund should have gone directly to the Social Sciences and Humanities Research Council, which provides scholarships for graduate students and researchers. Now, they will be in competition with each other.



Senator Cools said yesterday that we should have faith in what the government is doing. However, honourable senators, we do not have faith because this is not new to us. Questions of sole-source contracting, setting up foundations, and other such issues have been criticized in the Auditor General's report since 1999. I will quote from the 1999 report about sole-source contracts:

Based on the 50 sole-source contracts selected for detailed examination, in most instances the decision to contract is not well considered, the requirements are often defined only vaguely, pricing is not done with due regard to economy and often deliverables are not assessed against the original requirements of the contract.

The existing framework of contracting rules, policies and regulations for contracting is basically sound. However, the evidence shows that departments either do not understand this framework or in some instances chooses not to follow it.

On this side, we know on which side of the equation they sit — they choose not to follow it.

Treasury Board, in response to that, said they would train people to better handle these matters because they do not want to be seen as misappropriating money.

However, three years later we have advertising agencies, nine of which, in Canada, are receiving sole-source contracts for replacing government sponsorship for everything from hog to blueberry festivals to ensure that there is the Canadian brand placed on them, and they are receiving 8 per cent of the money.

In the 1999 report, the Auditor General also found that, contrary to the regulations, most contracts had not met the rules for sole-sourcing before the ACAN was posted. The exceptions permitting sole-sourcing were used excessively. In almost 90 per cent of the sole-sources examined, sole-sourcing was not justified under any of the permitted exceptions. These contracts ought to have been competitively tendered.

Honourable senators, I will take you through a little more history, and you will see why we should not believe what the government says.

• (1740)

In response to that, the government says that the Treasury Board's procurement policies, which apply to all departments and agencies, are based on the strong values and principles of competition, openness, equal access, transparency, fairness and the best value for Canadians. The government says that to ensure sound implementation the Treasury Board is committed to developing a program of training and certification for procurement specialists in the department.

**Senator Di Nino:** Who wrote that?

**Senator Tkachuk:** This is from the Auditor General's report. This is in response to sole-source contracting.

They have not been trained yet, or they have been trained badly. That is why we do not believe what the federal government is saying about the non-profit agencies that have no relationship whatsoever to the government.

There is more. Six months later, the 1999 Auditor General's report went through a whole list of significant gaps and weaknesses with regard to contracts as well as the millennium scholarships, another wonderful program the government controls. Can you imagine how much control the government will have over the Trudeau scholarships? The report says that there were significant gaps and weaknesses in the design of the arrangement, limited reporting to Parliament on whether they are working, little provision for public input, and lack of guidance to the departments on how to ensure accountability and good governance.

In 2001, the story is exactly the same. Senator Lynch-Staunton quoted at length from the Auditor General's report, and the situation has not changed. The government has been negligent in sole-source contracting. It has been negligent in how it controls agencies such as NAV CANADA, and it has been criticized by the Auditor General for that. Now the government is setting up new non-profit institutions outside of government and they are not controlled by the government whatsoever.

These three organizations will multiply because they see an opportunity to hide their expenditures. Parliament will not be better informed. We will have more difficulty addressing these issues. We do not even know who will be auditing the Trudeau foundation. I do not think it will be the Auditor General. I think it will be whomever they choose. Who will the report go to? As Senator Lynch-Staunton said, as with every other non-profit organization, the foundation will report to the government of the province in which it resides.

This is a very important issue of which we should all be cognizant. I have spoken on this matter many times, as has Senator Bolduc. Others are beginning to speak about it. I do not think we should let this matter go. We should try every conceivable way to ensure that the government is accountable. If the government does not want to deal with this matter, we must, because that is the main reason we are here. If we do not ensure accountability, no one else will.

**Hon. Nicholas W. Taylor:** Honourable senators, during the 10 years that I was in the opposition in Alberta, one of the things that caused me the most problems is exactly this situation. The government had a penchant for setting up agencies and transferring money to them. I argued that in a parliamentary system the entire house should approve the expenditures, but I was steamrollered out of the way. These organizations were not subject to examination by the Auditor General or by Parliament.

It is quite often said that once the money has been voted we cannot do anything about it. However, that is not the purpose of Parliament. Although there are approximately 300 MPs and approximately 100 of us, the cabinet does have a great deal of power. Anyone who has been in Parliament, on either the government side or in opposition, knows how much power the PMO and the cabinet have. However, our sole purpose is not to sing the praises of cabinet when it decides to do something. We must stand up and demand the opportunity to vote the money the government wishes to expend.

In Alberta, the Alberta Energy Company was set up. Without going to the legislature, this company was given \$40 million worth of land and \$40 million in cash. For four or five years, I could not even find out what the salary was of the president of that company. Alberta Energy has since merged with CPR, an organization formed about 100 years ago. The federal government formed the CPR and the Alberta government formed Alberta Energy, and they have now merged and become one of the biggest companies in Canada. I do not know whether we can learn anything from that. Perhaps the only way in which we will be able to buy back Canada is to have the cabinet set up such outside organizations.

The point is that these organizations claim to be non-profit. I was Chairman of the Standing Senate Committee on Energy, the Environment and Natural Resources last year when the committee reported that it deeply regretted — I think we even used the word “reprehensible” — the fact that the money to set up the Canada Foundation for Innovation was not only transferred to a group outside of Parliament but was transferred before Parliament had voted the money.

We have to speak up sometime, honourable senators. I will be the first to admit that I will vote for this measure because it is a money bill and I do not want to show a lack of loyalty to the government. However, there is nothing wrong with telling the government from time to time that it can go no further. How much are parliamentarians expected to swallow? Occasionally we must stand up and say, “No further,” and that applies to spending money without the approval of Parliament.

• (1750)

This issue goes all the way back to Runnymede and the Magna Carta. At that time, there was taxation without representation, which is what we have when we finance organizations without the approval of Parliament. I am not suggesting that we have another Boston Tea Party, but it is time to talk about the matter and raise a little heck. Maybe it will filter back to the Green Chamber from the Red Chamber that some of the bills they are passing and asking us to pass are just too much. The parliamentary system was not set up to give a blank cheque for whatever cabinet proposes. Parliament still has something to say. Some might say that we have been rewarded with these appointments and should support the government. I came here, and I suppose I am paying a certain price, which is to support the government. However, when it gets to me a little bit, I have to say, “Only so far, only too much.”

[ Senator Taylor ]

**The Hon. the Speaker:** Honourable senators, Senator Cools is rising to speak. She is entitled to do so. However, I must advise that if she speaks now, her speech will have the effect of closing the debate.

**Hon. Anne C. Cools:** Honourable senators, I wish to thank the two honourable senators for their interventions and to assure them that their considerations and their concerns will be taken forward.

For the sake of the record, I wish to state clearly that we are now on Bill C-52, which is the interim supply bill. The issue that they were speaking to — particularly Senator Tkachuk — was contained in Supplementary Estimates (B), which is Bill C-51. I do not think it matters, but the record should show clearly that the Pierre Elliott Trudeau Foundation grant is contained in Supplementary Estimates (B) and contained in Bill C-51.

I appreciate that what the senators said was valid and that they wanted to say it. To that extent, I do not have to respond because Bill C-51 was on the order just a few orders back and has already been voted on.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Cools, bill placed on the Orders of the Day for third reading at the next sitting of the Senate.

## FOREIGN AFFAIRS

BUDGET—STUDY ON EMERGING DEVELOPMENTS IN RUSSIA AND UKRAINE—REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the twelfth report of the Standing Senate Committee on Foreign Affairs (budget—study concerning Russia and Ukraine), presented in the Senate on March 25, 2002—(*Honourable Senator Stollery*).

**Hon. Peter A. Stollery** moved the adoption of the report.

He said: As honourable senators are aware, the Standing Senate Committee on Foreign Affairs has had a reference from the Senate concerning Russia and Ukraine. I believe we have had 17 officially recorded meetings, plus two full days of meetings in Washington. We have had 59 witnesses, 16 of whom have dealt specifically with Ukraine.

As honourable senators are aware, the committee was to have travelled to Russia and Ukraine in October. The World Trade Center tragedy put the trip off because those events made it difficult for the committee to travel.



We have had hearings for some time. We have, if my memory serves me, a draft report of approximately 100 pages. All members of the committee have had copies of this draft report since December. The issue now becomes: Does the committee travel to Russia and Ukraine to complete its work, or does it not?

It is always difficult, of course, to find a date that is perfect for everyone. As chairman, I consulted extensively with members of the committee. I have with me copies of the steering committee meeting that took place on February 6, 2002, in which Senator Corbin, Senator Andreychuk and myself agreed that the first choice for dates would be —

**The Hon. the Speaker:** Senator Stollery, I am sorry to interrupt. I must draw honourable senators' attention to the fact that it is six o'clock.

Honourable senators, is it your desire that we not see the clock?

**Hon. Senators:** Agreed.

**The Hon. the Speaker:** Senator Stollery, please continue.

**Senator Stollery:** Honourable senators, at the steering committee meeting of February 6, it was agreed that the first choice for dates was May 12 to 24. The second choice was April 8 to 19. I consulted with senators from both sides, and I do not think this is the place to discuss people's personal plans. I kept the notes; I had the staff consult broadly. I can only deal with what I am told. The committee decided on February 20 that we should start our hearings in St. Petersburg on April 15.

• (1800)

I realize that Senator Andreychuk has a difficulty with that date. My first preference was April 8, but I had difficulty getting both April 8 and April 15. In fact, she had difficulty with all of the dates that I proposed. At some point, a decision must be made. The majority of the committee decided that April 15 was the time to do it.

Honourable senators, in my position as chairman — and I speak for a majority of the committee — I feel that we should complete this order of reference from the Senate. We are in a position to do that. It would be much better if we went to Russia and Ukraine and completed our reference in the appropriate manner. I remind honourable senators that committees, as with the Senate, can only operate with the consent of its members. If people decide they do not want to make something operate, then it does not work. There is nothing much anyone can do about that.

Honourable senators, my proposal is April 15. That is where we are right now. Other senators have been very helpful. The Internal Economy Committee has approved our budget. We must get the public's business done. That is the position of the majority of the committee. If we do not go then, we will not be

able to go because we have other witnesses in May. We cannot go to Russia on May Day because there are a series of holidays there.

I listen to the advice that I receive from our research staff, and so on. The position of the majority of the committee is that these are the two weeks in which we could travel to Russia and to Ukraine.

Honourable senators, I wish to make one other point. It is hard to change dates when two governments are involved. We have witnesses in St. Petersburg. We have meetings scheduled. If I had heard some other date three or four weeks ago, I would have been perfectly happy to oblige. Indeed, I have tried to oblige members of the committee. These are the dates that I am proposing and that is where we are at the moment.

On motion of Senator Andreychuk, debate adjourned.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

### ELEVENTH REPORT OF COMMITTEE—DEBATE ADJOURNED

The Senate proceeded to consideration of the eleventh report of the Standing Committee on Rules, Procedures and the Rights of Parliament, entitled: *Modernizing the Senate Within: Updating the Senate Committee Structure*, presented in the Senate on March 20, 2002.—(Honourable Senator Austin, P.C.).

**Hon. Jack Austin** moved the adoption of the report.

He said: Honourable senators, I realize the hour is late and that we have been in session for over four hours. At the same time, however, this is an important report in the view of the Standing Committee on Rules, Procedures and the Rights of Parliament. I believe we should move forward with it. The fact that it is important does not mean that it will take a long time to deal with it.

On March 12, 2001, the Senate instructed the Standing Committee on Rules, Procedures and the Rights of Parliament to examine the structure of committees. The order of reference asked, in particular, that we consider human resources issues, scheduling, committee mandates and the number and size of committees.

The Rules Committee has taken over a year to consider the questions that are raised by the operation of committees. In the course of many meetings we have looked not only at the specific issues raised in the order of reference but also broader issues affecting the operation of the committees of the Senate. In the course of our debate, we asked a large question, namely, what kind of committees for what kind of Senate? That led us to examine the role of the Senate and to compare what we believe the role of the Senate to be with the way in which the committee system operates. Do we meet the express but also the inarticulate objectives of Senate committee operation?



The eleventh report contains a list of recommendations and proposed rules. I would ask honourable senators to look at those recommendations most carefully. The essential focus of these rules is to give honourable senators the opportunity to carry out the two most important tasks of Senate committees. The first is the expeditious and effective consideration of legislation; the second is the work of policy studies.

The committee workload that senators carry was carefully examined. As the report says, the resources of the Senate in the operation of committees are determined by the time available to senators. The committee report has studied the working schedules of senators and compared them with the working schedules in the other place where there are three times more members who can carry out the same work, particularly on the legislative side.

We have been concerned with the question of scheduling and the overlapping duties that some senators have found when committees on which they are members have been scheduled to meet at the same time. When that happens, we find that the work of the Senate is diminished by the inability of senators who may have interest in the committee work but who are unable to attend and therefore to make a contribution to the committee's deliberations. The report seeks to reduce to a minimum the problem of conflicts in the membership of senators on committees.

What we have considered in particular in dealing with the operation of committees, given that the senators' time is finite and the workload ever increasing, both on the legislative and policy side, are two questions: the extension of permanent committee scheduling to Mondays and Thursdays, as well as a close consideration of the total size of the membership on Senate committees.

• (1810)

Under the existing rules, the Senate committees are structured largely as 12-person committees, with the Standing Senate Committee on Internal Economy, Budgets and Administration and the Standing Committee on Rules, Procedures and the Rights of Parliament having 15 members. We looked at the attendance in various committees to determine where the effective working core existed in each of those committees.

Honourable senators, the principal recommendation in this report is to give the Committee of Selection, and therefore the whips on the government side and opposition side, at the beginning of every parliamentary session, the additional duty of assessing what might be the legislative and policy study workload of each of the committees in order to determine, in a scale between six and 12 members, what an appropriate committee membership might be. Some committees could work quite effectively within their mandate with fewer senators than 12, and other committees with a heavier workload might be better served by a larger membership, up to 12.

[ Senator Austin ]

Our recommendation, therefore, is designed to do three things: first, as I have said, to provide for an appropriate membership size in committees after assessing their probable workload; second, bearing in mind the reality of the difference in size between the government side and the opposition side and our desire in making this legislative chamber work as best it can, to provide the opposition with a better ability to assign its people resources and the time they have available to do the work of the Senate by reducing the size of certain committees. Our third recommendation is, of course, related to cost. We have examined what it costs to convene new committees. We have examined the requirement for clerks, translators and research people as the Senate wishes to expand its already quite ambitious committee schedule.

We have had discussions in the Standing Committee on Internal Economy, Budgets and Administration with respect to the budget available to the Senate. The principal consideration is always how much work a specific number of senators can undertake. We caution this chamber about the expansion of the existing committee system. In fact, we do not recommend that committees be added. We are simply asking for extreme caution in so doing because the workload is a heavy one.

Honourable senators, one problem we examined was the existing power of standing committees to create subcommittees on their own motion. When they did, the Senate was automatically compelled to add staff to the clerk, the translators and pages that provide service to those committees. We want to give the control of creating subcommittees and standing committees back to the Senate. Thus, the Senate — that is all honourable senators — will make the determination whether a subcommittee of the Senate, with the resources that it would require, has the approval of the Senate.

There are other recommendations, honourable senators, with respect to name changes of some of the committees to more effectively reflect their mandate and, with respect to the control by the Senate, of the authority of standing Senate committees to subpoena or summons witnesses and to require the production of documents. On the latter point, we are recommending that, prior to a standing Senate committee exercising that authority, the committee give the Senate two days' notice to examine the exercise of the power and the possible consequences of using the Senate's authority in that fashion.

Honourable senators, I recommend a most careful consideration of the report. We were asked by Senator Kenny to recommend block scheduling. That is discussed in the report. It may be the perfect system in avoiding conflicts, but it may not be the perfect system in expressing the interests of senators in committee work. We have asked the Senate to advise whether it wishes us to give further consideration to block scheduling because, in our view, the exercise would be a time-consuming one. On the question of mandates of committees, the view of the Rules Committee is to leave well enough alone.

There are three parts to the report that we call, "Modernizing the Senate From Within: Updating the Senate Committee Structure." The eleventh report deals with operational issues. The Rules Committee has before it a second part that deals with other aspects of committee operations and objectives.

We hope to report at an early date on issues such as a defined procedure for the consideration of petitions, how the Senate would deal with a committee that has tabled a report and wishes a government response, and how the Senate would react to the tabling of a secession referendum in one of the provinces of Canada.

The third part, which will take a while yet to come, will deal with options for broader reforms. The committee has been discussing these reforms for over a year, but it has not completed its consideration. The third part of the report will focus on how to bring the Senate closer to the people of Canada and the people of Canada closer to the Senate.

Honourable senators, that is an introduction to the eleventh report.

On motion of Senator Di Nino, debate adjourned.

• (1830)

## INTERNATIONAL DAY FOR ELIMINATION OF DISCRIMINATION

### INQUIRY—DEBATE ADJOURNED

**Hon. Vivienne Poy** rose pursuant to notice of March 19, 2002:

That she will call the attention of the Senate to the significance of March 21st, the International Day for the Elimination of Racial Discrimination.

She said: Honourable senators, since 1966, March 21 has been recognized as the United Nations International Day for the Elimination of Racial Discrimination. Canada was one of the first countries to support the UN declaration.

In 1989, the Department of Canadian Heritage launched its annual March 21 campaign in response to the need to heighten awareness of the harmful effects of racism on a national scale and to demonstrate clearly the commitment of the federal government to fostering respect, equality and diversity. As such, it is clear that the elimination of racism remains a goal to which Canadians aspire. It is in this context that I wish to consider where we are now in this process and what we still must do to move toward our goal of eliminating racial discrimination.

Before we look at that process, we must consider the significance of this debate. What do we mean when we speak about the harmful effects of racism? Of course, racism is in direct opposition to the ideology of the society we wish to create. It is the antithesis of tolerance, equality and respect for diversity called for in our national policy of multiculturalism.

Reiterating these goals is especially important since September 11, 2001, since some people now feel that they have been given a licence to express racial hatred, even though recent polls have found support for a policy of tolerance remains rock-solid.

However, eliminating racism is far more than ideological. It is also a legal and economic issue. As long as we fail to address these aspects, we will not be true to the intent of the equality provisions contained within the Charter of Rights and Freedoms, nor will we benefit fully from the human capital that is essential to our global competitiveness.

In February of this year, the Canadian Council on Social Development released a report in which it concluded that recent immigrants have not done as well in the job market as previous arrivals to Canada, despite the fact that a large proportion of recent immigrants tended to be highly educated. In fact, in 1998, 72 per cent of immigrants selected in the skilled worker category had university degrees. Overall, in 2000, 58 per cent of working-age immigrants had post-secondary education, compared with 43 per cent of the Canadian population. Nevertheless, according to census data from 1981 to 1996, there was a progressive trend toward lower rates of labour force participation and lower levels of earnings among immigrants compared with the Canadian-born population.

The council concluded that part of the reason is that racial discrimination has, indeed, become more of an issue as new immigrants are increasingly drawn from visible minority groups who are more vulnerable to racism. At least three out of four new immigrants are visible minorities, virtually double the proportion in the mid-1980s.

The lack of recognition, or undervaluation, of foreign credentials and skills by employers also plays a significant role. Whatever the reason for our failure to fully utilize human capital, it is a costly one.

Jeffrey Reitz, a sociologist and professor of industrial relations at the University of Toronto, estimates that the net loss to immigrants and to the Canadian economy of this brain waste is several billion dollars a year. Visible minorities earn between 15 to 25 per cent less than most immigrants of European origin, whether in skilled or unskilled labour markets. What do these numbers mean for Canada's future?

According to the latest census figures, immigrants are our future. Immigrants are expected to account for virtually all of the net growth in the Canadian labour force by the year 2011.

Faced with a potential labour shortage, our government has responded by raising the standards of immigration even higher. As long as the dual issues of accreditation and discrimination are not adequately addressed through sound policy initiatives, we will not benefit from our immigration policy because an immigrant's education and skills are not put to good use.



Consider that even in the early 1990s when Canada's technology industry was demanding new talent, between 1991 and 1994, 10,279 immigrants arrived in Canada listing civil, mechanical, chemical or electrical engineering as their profession. However, by 1996, only half of those immigrants were practising their professions. In short, there is a disconnection between what Canada sets out to do in its immigration policy and the reality facing new immigrants upon their arrival.

Ratna Omidvar of Toronto's Maytree Foundation sums it up by saying:

...we can't be pro-immigration without being pro-immigrant. We want immigration to fuel our economy but would rather not deal with immigrants, especially if they are not white.

Highly skilled immigrants represent a tremendous windfall to Canada. We have not paid a cent for their education and training and we can benefit from their skills during their prime working years. By not taking advantage of their skills, we are losing ground in the global economy.

There has been much rhetoric about the brain drain from Canada to the United States because of higher salaries and lower taxes. It is particularly ironic that a lack of equality in access to employment, and the frustration that this engenders, has become a significant factor in the loss of some of our best minds to our neighbour to the south.

A large part of the responsibility rests with employers. According to a recent CBC report, employers rate foreign education as valued at half of that of a Canadian education and foreign work experience at zero.

It is important that public institutions set an example for the private sector in developing strategies to fully reflect Canada's diversity. After all, one of the benefits of a multicultural society is that we have attracted some of the best minds in the world to our country. Let us develop concrete and specific methods to utilize this strength.

• (1830)

I should like to start with our universities. On paper, most universities, like the public sector, are committed to employment equity. In fact, many universities have signed the Federal Contractors Program that allows them to bid on government contracts, in which they made a commitment to implement employment equity through goals and timetables for the hiring of groups designated as disadvantaged: women, visible minorities, Aboriginal peoples and persons with disabilities. In practice, however, change in the faculty makeup of universities has been very slow, despite good intentions expressed on paper. The composition of student bodies has changed to reflect Canadian society as a whole. Many universities now boast a significant percentage of visible minorities in their student populations.

For example, at the University of Toronto, currently 57 per cent of students in undergraduate studies are visible minorities. In March 1991, the University of Toronto approved an employment equity policy with clearly enunciated goals and timetables for achieving them. However, last year, Professor Shah of the University of Toronto, noted that between 1991 and 1999, the percentage of visible minorities in tenure-streamed faculty actually declined from 9.7 per cent to 8.7 per cent.

The new president of the University of Toronto since July 2000 is determined to turn things around. Fresh from the Massachusetts Institute of Technology, or MIT, Dr. Birgeneau sees the need to internationalize the Faculty of the University of Toronto to make it the best in the world. Dr. Birgeneau stresses that the reason for diversity is not to meet quotas, but to further the excellence of the institution. He said:

...the watchword of such recruitment must be excellence since anything less will only serve to harm the future greatness of the University of Toronto, and the people who populate it. Exceptional people will be drawn to our enterprise precisely because they will feel at home in an academic community that respects and celebrates diversity at all levels, and that gives them the tools to do great work. I believe strongly that this will give us an advantage that can ensure the University of Toronto's ranking among the very top public universities in the world.

Dr. Birgeneau's plan calls for diversity at all levels of the university, from senior administration to the faculty level. According to Dr. Birgeneau, the only way to have the best faculty is to be proactive. This means searching the world for the best academics to fill the positions. Dr. Birgeneau says that this strategy worked for the Department of Neurosciences at MIT. He said:

There, by hiring on the basis of excellence and excellence alone, we were able to move the Neuroscience department from being strong, but not world class, to being well up among the top ten in North America. In doing this, we made about 15 new appointments. Among this group, the distribution turned out to be approximately 30 per cent white male, 30 per cent female, and 40 per cent visible minority.

Employment equity is also espoused in the public service and numerous goals and timetables have been tabled with some results, but many problems remain. Honourable senators have probably heard of Dr. Shiv Chopra who has been a thorn in the side of Health Canada officials for many years. In August of 2001, the Canadian Human Rights Tribunal ruled that Dr. Chopra, who is of East Indian decent, was discriminated against because of his ethnicity. Dr. Chopra has been a drug evaluator in the Bureau of Veterinary Drugs for the past 33 years. In 1990, he failed to win a promotion, despite good job evaluations.



Similarly, in the fall of 2001, Dr. Ranjit Perera won a major suit against the Canadian International Development Agency in which he received a promotion and obtained a commitment from CIDA for the hiring and promotion of visible minorities.

These two recent cases highlight the need for a more proactive approach to employment equity, as suggested by Dr. Birgeneau, throughout the civil service.

Visible minorities are underrepresented in the civil service compared to the overall representation in the general population, which stands at 11 per cent. Last year, in the five largest departments of the civil service, they made up 5.2 per cent of the total workforce, less than one-half of their representation in the general population. At the deputy and assistant deputy level, the percentage was even lower, at 3 per cent.

Change will require more than good intentions on paper, more than targets and more than well-meaning efforts. These factors are important, but they will not be effective without a fundamental change in the corporate culture of the civil service so that top management supports diversity. In this case, the government must take a leadership role by educating these top bureaucrats. As the honourable Roy McMurtry, Chief Justice of Ontario stressed, change is about individuals. He said:

All the laws in the world and human rights codes count for little if individual citizens are not willing to make a personal commitment to tolerance and fighting bigotry in society...You cannot legislate to what degree a man must love his neighbour, nor even that he must not hate him.

Honourable senators, the current situation that faces many new Canadians has been called a "Canadian-made tragedy" in which, aside from the enormous losses to our economy, we are faced with an incalculable loss in human potential. Bobby Premakamaren, who came here four years ago with a degree from Middlesex University in England and five certificates in accounting, knows this well. After sending out 3,000 resumes over the past four years looking for an accounting position —

**The Hon. the Speaker *pro tempore*:** I regret to interrupt the honourable senator, but her time has expired. Is there a request for more time?

**Senator Poy:** I would ask for some time.

**Hon. Senators:** Agreed.

[Translation]

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I would like to know how long the senator would need to complete her remarks, because sometimes a little time becomes a lot.

[English]

**Senator Poy:** I would like three minutes.

**Senator Robichaud:** No problem.

**Senator Poy:** Mr. Bobby Premakamaren now cleans office buildings and apartments. He describes his immigration experience in Canada as a "disaster."

Our universities, our government and our corporations must create a level playing field for new immigrants and visible minorities. Ultimately, this will come down to fair-minded individuals in management positions taking the lead to develop new models for our institutions so that all Canadians have a chance to contribute to Canada.

Honourable senators, as parliamentarians, we can help these new models to emerge. The current situation surrounding accreditation needs to be clarified so that employers and new Canadians have the information that they need. Hiring must be based on merit, and merit alone.

At the same time, it is of the utmost importance that we continue to educate Canadians about the reality of race. As recent findings about the human genome revealed, humans share 99.99 per cent of the same DNA with one another, which confirms the fact that there is no scientific basis to support the concept of race. Race is socially, not scientifically constructed. Therefore, racism does not make sense.

Honourable senators, next month we celebrate the twentieth anniversary of the passage of the Charter of Rights and Freedoms. It is important for all parliamentarians to take the initiative to support the true meaning of the Charter, which is equality for all Canadians.

As the Chief Justice of Ontario, the Honourable Roy McMurtry said:

The challenge of brotherhood, of an experiment that bursts through the limits of nationalism to embrace people of diverse ways and diverse tongues is what it means to be Canadian.

Honourable senators, the elimination of racism is not just about economics or the law, it is a question of the heart.

On motion of Senator Kinsella, for Senator Andreychuk, debate adjourned.

• (1840)

## LIFE AND TIMES OF THE LATE DALTON CAMP, O.C.

### INQUIRY

**Hon. Norman K. Atkins** rose pursuant to notice of earlier this day:

That he will call the attention of the Senate to the life and times of the late Dalton Camp, O.C., whose death occurred March 18, 2002.

He said: I wish to thank honourable senators for their unanimous support of this inquiry because I have a few things to say in honour of Dalton Camp and in honour of my other close friend, Finlay MacDonald. I was not present in the chamber when tributes were made to Finlay.

Honourable senators know that both Dalton and Finlay were very close friends of mine. They were great characters and, quite frankly, real devils. One would have to know them to appreciate that comment.

It is interesting, honourable senators, that Dalton and Finlay met in 1953 during the Nova Scotia provincial election. Senator Carstairs will remember that election because her father was an MLA at the time and he ran in that election.

It was four weeks ago yesterday that I went to Fredericton because Dalton had had a temporal lobe stroke. For those of honourable senators who are not familiar with that kind of stroke, it does not affect mobility but it does have an impact on one's mind. Our families sat 24 hours around the clock while he was recovering from the stroke. I was there for several hours each day for six days. It was an incredible thing to watch his recovery from the day I arrived to the day when I had to leave.

The hospital staff were amazed at how well Dalton responded to treatment and was recovering. Finlay, each day, would call the office to find out how Dalton was doing. By the fifth day, I called the office and said, "Call Finlay and tell him that he can call Dalton." We gave Dalton's number to Finlay, and they had a conversation two days before Finlay passed away. Finlay was so delighted by his conversation that he sent an e-mail to Finlay Jr. to say how delighted he was with the way Dalton was recovering.

Lo and behold, two days later, I was sitting at home on a Saturday afternoon when Finlay Jr. called to tell me that his father had just passed away. His father died on a treadmill. It was one of those situations where, on the Friday night, he felt some chest pains and went into the hospital. On the Saturday morning, the doctors checked him over and they felt that his vital statistics were fine. They put him on a treadmill, and he did not survive that.

I then had to travel to Halifax. I went down the next day to help the MacDonald family organize Finlay's funeral. I was the only one outside the family who participated in that memorial service.

When I called Dalton to tell him I was doing that, I also told him that I would read an item from the *New Testament*. Dalton asked, "What are you reading? You have to tell me what it is." I had to read through every line of the verse with him. He made me emphasize the syllables so that I would get it right — that is how strongly he felt about being part of this service. I found out later that Finlay Jr. had run his eulogy by Dalton before the service on the Wednesday.

I came back to Ottawa. Dalton continued to recover, to the point that one week ago Saturday he was allowed to go home. He

went home and his energy level was incredible. He wanted to do everything, including, by the way, go to the Sheraton for a martini at the bar. He spent Sunday at his house. On Monday, he insisted that his daughter take him to Fredericton, where he went to the dry cleaner and to the bank. He then had lunch at the Sheraton, including a glass of white wine. In the afternoon, he went to the legislature with his daughter, where they stayed for more than one hour. They then drove back to Cambridge Narrows.

His family made him agree that on Tuesday he would take it easy — that he would slow up and just cool it for the day. It was late on Tuesday that he began to lose his voice and he became unconscious. He never recovered. He had seizures that kept occurring in the emergency ward at the hospital, and by the next Monday — one week ago yesterday — he passed away.

Dalton was a guy who loved life — he never wanted to give it up. He was very close to me because I knew him for over 60 years. Dalton was my hero, my mentor and my employer. We were partners in business. We did it all. I ran two unsuccessful campaigns for Dalton in Eglinton and Don Valley. Of course, he was involved in almost everything that he ever did throughout his political career and in many other ways.

There is no way that I could describe Dalton any better than Robert Stanfield did. In 1953, we were all in Nova Scotia because of Robert Stanfield. He has issued a statement that I will read: "Dalton was a special person and I am extremely fortunate that he was my friend and political companion for almost 50 years. He had a brilliant mind and was a keen observer of the political life of this country. He also played a unique part in the politics of the country. He had the courage to say what he believed to be right. He was thoughtful, sensitive and compassionate. He loved politics — the ideas of the people. He had a remarkable ability to be both a political philosopher and a political activist. His writings over the years reflect how keenly he observed and how much he cared about the political life of this country. I have lost a deeply valued friend, and the country has lost a unique and valued political voice."

The service last week for Dalton was wonderful, as was the service for Finlay. In Finlay's case, his son Finlay Jr. gave the eulogy, and on Saturday for Dalton, it was his eldest son David. David made one comment in his eulogy that I think is so appropriate to Dalton: "In the fight for the soul of this country Dalton became a radical in search of moderation."

Honourable senators, in the case of both Finlay and Dalton, we have lost great Canadians.

• (1850)

**Hon. Sharon Carstairs (Leader of the Government)**  
Honourable senators, I do indeed remember the 1953 election to which the Honourable Senator Atkins refers. I was 11. My father was the Minister of Health running in Halifax North and he certainly knew of the work that was being done to impede him by Finlay MacDonald and Dalton Camp.



Through many of my university years, Findlay MacDonald lived one street over, so I knew him. I knew him by his dapper dress; I knew him by his friendliness and I knew him by his reputation.

I knew Dalton Camp only through his writing and his obvious public persona in good times and not such good times for the Tories. I knew him as part of the *Morningside* trio and I had great admiration for his skill with the English language. It does not surprise me that he would want Senator Atkins to enunciate very carefully.

What we heard this evening was a tribute to friendship, the friendship that Senator Atkins had for two special men. They obviously thought that Senator Atkins was very special, too, because they clearly made him their friend.

I thank Senator Atkins for sharing his very private moments with us and for the obvious friendship he had with them, demonstrated by his being with them both in times of need.

**Hon. Lowell Murray:** On that note, honourable senators, no recounting of the life and times of Dalton Camp would be complete or fair without mention of the central role of our colleague, Senator Norman Atkins. As a close observer, allow me to say a word about that.

What began a half century ago as the apprenticeship of a younger brother-in-law became a unique and extraordinarily fruitful full partnership. Norman's organizational skills and his natural talent as "rassembleur" proved to be the perfect counterpart and sometimes the necessary counterweight to Dalton's more visionary, instinctual approach. On top of everything, they were family and dear friends. Dalton's passing brings to an end that wonderfully creative relationship.

Norman was the closest to Dalton of a younger generation of Tories whose political thinking and activity was so much influenced by our association with him. Mr. Diefenbaker once described us as "Camp followers." He did not intend it as a compliment, but we wore it proudly.

On September 18, 1980 — a hard year for the Tory Party — I spoke at an Albany Club dinner marking Dalton's sixtieth birthday and tried to acknowledge our debt to him. I said:

For many of us who are somewhat younger than 60, and whose youthful zeal seemed in days past unwelcome in the Tory Party, and whose spirit was almost broken by the experience, Dalton Camp gave us a home, sustained our interest, stimulated our thinking, challenged us, organized us, inspired us, most memorably of all befriended us, and encouraged us to carry on. Today we sometimes think he has...despaired of us. But he cannot disown us. His mark is on many of us. It is on the Tory Party. It is on the political history of our country.

I spoke at Dalton's eightieth birthday 17 months ago in his hometown of Woodstock, New Brunswick, offering

encouragement to Dalton's passionate advocacy in the words of Disraeli:

...in an age of political materialism...that aspires only to wealth, because it has faith in no other accomplishment, toryism will yet rise...to announce that power has only one duty: to secure the social welfare of the people.

Let me give the last word to Dalton. In the introduction to his book of columns seven years ago he described himself as:

...a deep believer in party politics and a romantic admirer of those ordinary and sensible people who maintain and assure the vitality of partisanship.

Dalton wrote:

It is a pity that so few journalists understand the requirement for partisan politics and its role in a democracy. But it is difficult to educate or enlighten people who do not, as we used to say in Carleton County, know their arse from their elbow about politics but who delight in disparaging its practices and defaming its practitioners.

At the Allan J. MacEachen Annual Lecture in Politics at St. Francis Xavier University in February 2000, Dalton assured us:

...the parties will return...The time will come when the country will need them...That's why I think we should all continue to invest our time and energy and thought in the business of politics. It was always good to me. It was fun. It was enjoyable. And the blessed thing you got out of it was that if you were in politics you got to know the country, you got to know your neighbours, to know who you were living with and working with. There is no substitute for that experience. I think we should be of good hope and good spirit and watch the tides, because they do change.

**Hon. Laurier L. LaPierre:** Honourable senators, I also thank Senator Atkins for his remarks and his encyclopedic knowledge of Dalton Camp.

Under the rubric of Senators' Statements, I made some remarks about Dalton Camp, the acquaintance I had with him and the considerable number of glasses of whatever we drank over the years.

[Translation]

What strikes me, honourable senator, is that there really are two solitudes. In the course of his career, I often told Dalton Camp he ought to speak French. He also, I suggested, ought to write in French, so that the French-speaking world in general might discover his wisdom, his immense joie de vivre, and his respect for the values of this country. Had he written and spoken in French, he could have reached a considerable number of Quebecers and Canadians for whom politics —



[English]

— is a marvellous game.

[Translation]

If you can engage in politics, you can contribute to the development of the country. If you are able to communicate in both of the country's languages, you can contribute to strengthening its values.

For all these reasons, I would like to see this great solitude come to an end and people able to pass from one language to another —

[English]

— in order to be able to reach out to each other and to contribute this amazing capacity that we all have in our love of this marvellous, glorious country, and to be able to lift it up even more and to keep it so that it will be able to fulfil the destiny that is the country.

I think Dalton understood that. He was able to illuminate us, entertain us and, above all, to show us how very important it is to love a land that is dedicated to multiculturalism, pluralism and freedom.

• (1900)

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, Dalton Camp has made his native province of New Brunswick very proud of this distinguished son who has left such a mark on the political, economic and social life of our great country, Canada. Therefore, it was only to be expected that an overflowing congregation gathered at Christ Church Cathedral in Fredericton, led by Her Excellency the Governor General of Canada, to bid a final farewell to, but also to celebrate the life of, Dalton Camp.

Honourable senators, it was interesting to observe how representatives of the four estates were present to honour Dalton's life. Indeed, we might well say five estates, given the presence of so many television colleagues, who were present to remind us of not only *The Fifth Estate* program, but also the many television appearances that Dalton made over the years as a political commentator.

The first estate, the Lord spiritual, was reflected in the participation of the Lord Bishop of Fredericton, where the Lords temporal of the second estate were often the subjects of Dalton's columns. Who will forget Lord Almost or Lord Something-or-other?

We know how much Dalton was at home with the third estate, whether at Cambridge Narrows in central New Brunswick or in the midst of the crowds at so many political conventions. However, it was as a leader in the fourth estate of journalism that

millions of Canadians came to know and admire this outstanding columnist.

Dalton was a wonderful writer. His command of language was such that he wrote his columns with the pen — in truth, an old Underwood typewriter — but that of an artist. His use of metaphor and analogy was never tautologous for Dalton, his progressive and conservative analysis never a contradiction. His fine mind was clearly refined by his humanist soul.

Dalton was mindful that time is the great equalizer. He knew that there was a time to write and a time to read, a time to reflect and a time to act, a time to work and a time to rest. Dalton has earned his rest, and we trust that he now is at rest in the bosom of Abraham.

**Hon. Joyce Fairbairn:** Honourable senators, I, too, wish to thank Senator Atkins for taking the opportunity to speak of his friend today. I began as a listener and, as I listened, Senator Atkins' comments opened up a flood of memories that for me go back on this Hill to the 1960s.

When one thinks of Dalton Camp, one cannot help but think of Norman Atkins and the chill that went through Liberal souls to know that whenever we were approaching elections, these two devils would be working their magic for their cause, be it in Ontario or nationally.

What we have heard this afternoon is, I suppose, one of the special things that happens in the Senate from time to time. We are faced with living history in this chamber of a kind that is not particularly valued by many people, but, in the end, we persist in it because it does touch at the foundation of democracy in our country, and that means people.

As a young journalist on Parliament Hill, I had the opportunity, the privilege and the almost constant pleasure of being asked by whomever I was working for to cover Mr. Diefenbaker or Mr. Stanfield. I covered, to a large degree, the Conservative Party during those years. One of the most memorable occasions of drama — today we seem to have fights, but in those days we had drama — was, of course, Mr. Camp's crusade for the possibility of a shift in leadership of the Conservative Party. Schoolmates of mine like Joe Clark were very much involved in this drama, as was a young Brian Mulroney. A young Lowell Murray was involved in many dramas.

In recent days I have thought often that people who perhaps did not know Dalton always seem to refer to him as a backroom person. He never was a backroom person. My first real memory of him is sitting in a crowded room at the Château Laurier that had been packed early on by a group of people who were strongly supportive of Mr. Diefenbaker and not at all of Mr. Camp. At some moment in this steamy, crowded room, this slight figure walked down the centre aisle and got up in front of this crowd and made his pitch that it was time for new leadership. I thought to myself, "My God, how courageous that is and what it takes to do that."

[ Senator LaPierre ]

This was not a person who lingered in backrooms. Dalton Camp was always a person who stood up front and was prepared to say what he had to say and to do what he had to do without any question of fear or any lack of confidence in the rightness of his cause, as he perceived it.

Other senators have mentioned today how Canadians got to know Dalton Camp through the broadcasts of our old friend Peter Gzowski.

The other part of Dalton Camp that many Canadians have discovered in recent years is what a splendid and fearless writer he was. My husband Mike is up here and came in just to listen to Senator Atkins today. A weekend has not gone by in which, if *The Toronto Star* comes and I am out of town, that page has not been kept for me by Mike so that I could read what Dalton had to say. Sometimes I did not want to read what Dalton had to say, but I read it nonetheless.

In the end, there was such a sense of affection and respect for him because as he moved away from the fray, he became a real spokesperson for every man and every woman. He wrote in his columns about the fair chance for citizens in this country, regardless of the politics.

In every contact I ever had with Dalton Camp, he raised his colours high in politics, but never to the exclusion of those of us who carried other colours. He let us be friends. I think that is the finest thing one can say about anyone in public life.

**Hon. Senators:** Hear, hear!

**Hon. Joseph A. Day:** Honourable senators, Senator Atkins lost two good friends in the last while. We thank Senator Atkins for his very sincere words in sharing his experiences. I did not know Finlay MacDonald very long. I met him only recently. Senator Atkins introduced me to him in Halifax, when we were down there on committee work. I thought how nice it was that a former senator could be invited out to one of our committee meetings. He sat through the afternoon and we all got to meet him. He seemed to enjoy himself very much on that occasion. I regret that we had more meetings in the evening so I was unable to attend dinner with Senator Atkins and Finlay MacDonald. However, I do appreciate having had the opportunity to meet him on that occasion.

• (1910)

Dalton Camp, I should like to say, was a friend — not as close a friend as he obviously was as to Senator Atkins, but a good New Brunswick friend. I met him on many occasions and at many meetings along the way. I hasten to point out that, at any partisan meetings that I might have attended, I was there as a partisan and he was there as a journalist. We got to know one another quite well.

One of my close memories of Dalton Camp was during one of the federal campaigns, when I attended at his country home in Cambridge Narrows. We sat around his kitchen table having a cup of coffee and talking about politics. Some honourable

senators might think that he having me in there and using up my time was designed to keep me from visiting other houses. Any cynic would think that. However, if you had known Dalton Camp you would know that is not the case. He was quite interested in who might be his representative. At the local level, I have no doubt that he would make the right choice from a fundamental political point of view and not necessarily from a partisan point of view.

The people of New Brunswick knew Dalton Camp very well, in particular, the people from southern New Brunswick. Although he was born and spent his early years in Woodstock, in the central northern part of the province, whenever he could he was back at either Robinson's Point or at Cambridge Narrows, both areas very close to where I lived, grew up and represented.

Irrespective of how often Dalton Camp was called upon on national and international matters, whenever he could, he always answered the call from local communities, in Hampton or in some of the smaller towns such as Sussex, to attend the small meetings to help them out in their community halls. I attended many of those meetings. He was always able to captivate his audience, whether it was an audience in downtown Toronto, Montreal, or an audience in a small community where 10 people will pull up chair at, say, Waterford, New Brunswick, and listen to him. He always went back to fundamentals. When he spoke, you knew that he was speaking from the heart in a well-reasoned manner.

Dalton's family, his friends and his children can take comfort in knowing that he was able to achieve something that many of us aspire to but not very many of us are able to achieve to the same level as he was able to do. That is, he led a good life and during that good life he made a difference.

**Hon. Senators:** Hear, hear!

**The Hon. the Speaker *pro tempore*:** As no other honourable senator wishes to participate in the debate, this inquiry is considered debated.

## RULES, PROCEDURES AND THE RIGHTS OF PARLIAMENT

TIME ALLOCATED TO TRIBUTES—  
MOTION TO EXTEND DATE OF FINAL REPORT ADOPTED

**Hon. Jack Austin,** pursuant to notice of March 20, 2002, moved:

That notwithstanding the motion adopted by the Senate on December 4, 2001, the Standing Committee on Rules, Procedures and the Rights of Parliament be authorized to extend the date for the presentation of its report on the time allocated to tributes in the Upper Chamber from March 31, 2002 to May 31, 2002.

He said: Honourable senators, the motion is for the purpose of extending the due date of a report with respect to tributes.



The Standing Committee on Rules, Procedures and the Rights of Parliament is requesting that the due date be extended from March 31, 2002 to May 31, 2002.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

[Translation]

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Wednesday, March 27, 2002, at 9 a.m.

**The Hon. the Speaker *pro tempore*:** Is leave granted, honourable senators?

[English]

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, I wish to ask for clarification. Is it the honourable senator's intention that, effectively, we would be operating under Friday-hour rules?

[Translation]

**Senator Robichaud:** Honourable senators, instead of starting at 1:30 p.m. as we normally do on Wednesdays, we will start at 9 a.m. If we were to operate under Friday-hour rules, we should finish at a specific time. Given the work on tomorrow's Orders of the Day, it would be preferable to continue, as we do every Wednesday.

[English]

**Senator Kinsella:** That clarification is important. Starting at 9:00 a.m., then, pursuant to the rules, we would end at midnight if necessary, rather than at 4:00 p.m.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable, senators adopt the motion?

**Hon. Nicholas W. Taylor:** Honourable senators, for more clarity on the motion, we talked about having a vote tomorrow with a half-hour bell. Does that mean the bells will ring at 8:30 a.m. or at 9:00 a.m.?

**Senator Robichaud:** The vote will be at 10:00 a.m.

**The Hon. the Speaker *pro tempore*:** The bells will ring at 9:30 a.m.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Wednesday, March 27, 2002 at 9 a.m.



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CANADA

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OFFICIAL REPORT  
(HANSARD)

Wednesday, March 27, 2002



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THE HONOURABLE DAN HAYS  
SPEAKER

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(Daily index of proceedings appears at back of this issue.)

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## THE SENATE

Wednesday, March 27, 2002

The Senate met at 9 a.m., the Speaker in the Chair.

[English]

Prayers.

### ENVIRONMENT

#### BELIZE—FORTIS DAM ON MACAL RIVER

### SENATORS' STATEMENTS

#### WORLD THEATRE DAY

**Hon. Viola Léger:** Honourable senators, today, March 27, is World Theatre Day. It is an occasion for theatre artists to share with their public how they see their art and how they think it can contribute to understanding and peace between peoples.

The theatre brings people together and World Theatre Day is the celebration of this vision.

I will read what Quebec playwright Michel Tremblay wrote in his international message in the year 2000:

...the role of theatre? To accuse. To denounce. To provoke. To disturb ... Salvation, as we head into the third millennium, will come ... from those ... voices which rise up everywhere to denounce injustice and, true to the very foundations of theatre, extract the essence of humankind, press it and transform it in order to share it with the whole world ... These voices speak to everyone because, from the outset, they are aimed at a particular person, a particular public, which can be stirred at the recognition of its joys and its sorrows, which can cry and laugh at itself. And the whole world will recognize itself if, from the outset, the likeness is a good one.

In celebration of this day, I am going to share with you a few words from my favourite character: *La Sagouine* by Antonine Maillet.

Got a sayin of my own, that Spring is the good season fer us. Some say it's summer. But I'm pretty sure that to be happy, a person's gotta hope fer som'n, som'n better. So, durin the whole of Spring, we're hopin fer summer. We wait fer clams 'n quahaugs, fer blueberries 'n warm weather, 'n fer'em picnics at Sainte-Anne's 'n Sainte-Marie's. While in the month of August, we ain't waitin fer not'n anymore. It ain't havin som'n that gets a person feelin good, it's knowin you're gonna have it. That's why Spring is the best of times, I says.

**Hon. Janis G. Johnson:** Honourable senators, I rise today to address a matter that should concern all Canadians. I am referring to the controversial plan of Canadian hydro developer Fortis Incorporated to build a dam on the Macal River in Belize. This proposal has attracted vociferous opposition from key environmental groups and noted scientists, and much attention in the media.

Fortis holds a monopoly on the provision of electricity in Belize. It also owns majority shares in an ineffective hydro dam already installed on the Macal River, to which the planned dam would provide water during the dry season.

In accordance with Belizean law, Fortis had an environmental impact assessment done for the proposed project. They gave the job to AMEC, an engineering firm with a long history of hydro development. AMEC in turn succeeded in securing \$250,000 from CIDA for this assessment under CIDA's Industrial Cooperation Program, which supports the creation of "justification reports" for development projects.

Opposition to this project first stemmed from the fact that the area Fortis proposed to flood is a crucial habitat and breeding ground for several threatened and endangered species. The worst fears of these groups were confirmed by AMEC's own assessment of the dam's impact on wildlife, which AMEC subcontracted to the Museum of Natural History in London. Their report highlighted the likely devastating effects of the dam on the area's rare wildlife and ecosystem.

In the months since its publication, more problems with the report have come to light. The most shocking of these are its highly questionable geological assessments. The report wrongly identifies the site's bedrock as granite, when it is known to be made of poor load-bearing sandstone and shale. It also fails to report 45-metre-deep faults in the bed of the proposed reservoir.

Fortis is pushing ahead, however, with the construction of a service road network in the area, despite the fact that they have not yet produced an environmental impact mitigation plan, a requirement of the Belizean government before proceeding.

For us, honourable senators, the question is about our government's involvement in this exercise, as \$250,000 of taxpayers' money has gone toward supporting a report that seeks to justify the project of a Canadian company at all costs.



Fortis, AMEC and CIDA should account for these errors and act responsibly. A Canadian company supported by the Canadian government is flouting standards that are rigorously applied in our own country. They have the same moral and legal obligation to protect the interests of the citizens of Belize, who will pay dearly if the dam fails.

[Translation]

## QUESTION PERIOD

### DELAYED ANSWER TO ORAL QUESTION

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, I have the honour to table a delayed answer in response to an oral question raised in the Senate on February 5, 2002, by Senator Kinsella, regarding National Defence.

### NATIONAL DEFENCE

#### WAR IN AFGHANISTAN—POSSIBILITY OF PRISONERS BEING TRIED UNDER LAWS OF COUNTRY OF ORIGIN

*(Response to question raised by Hon. Noël A. Kinsella on February 5, 2002)*

The Canadian government has not finalized a position on this issue which remains, as of now, hypothetical. To our knowledge, there are no Canadians detained by the U.S. in Afghanistan or at Guantanamo Bay.

Obviously, the particular facts of a situation would have to be considered before determining a course of action.

Nonetheless, the question raises issues under international law and perhaps the Canadian Charter. Under international law, any detainee captured by the Canadian Forces, irrespective of their nationality, is entitled to a standard of treatment corresponding to their status during the armed conflict. With respect to Canadians detained by other military forces, international law imposes no obligations on Canada per se. We would, however, expect the detaining forces to treat the detainee in accordance with their international legal obligations and to accord Canadian officials access to the prisoner.

Canadian criminal law is primarily territorial in nature. In most circumstances, Canada cannot prosecute for a crime that has been committed outside Canada. The exception to this normal rule relates primarily to criminal offences which are defined in international law, such as piracy, hijacking, hostage taking, or crimes against humanity or war crimes. So Canada's ability to try such a person "pursuant to Canadian justice" would depend very much on the details of the crime alleged against the individual.

[ Senator Johnson ]

## ORDERS OF THE DAY

### BUSINESS OF THE SENATE

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, under Government Business, we would like to start with Item No. 3, third reading of Bill C-52, and then proceed to Item No. 1, third reading of Bill C-39. If we have the time — but we will probably be interrupted by the recorded division — we will then proceed to Item No. 2, third reading of Bill C-30. If not, after the recorded division, we will resume debate on third reading of Bill C-49 and then proceed with the Orders of the Day as set out in the Order Paper.

[English]

### APPROPRIATION BILL NO. 1, 2002-03

#### THIRD READING

**Hon. Anne C. Cools** moved the third reading of Bill C-52, for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003.

She said: Honourable senators, I think that matters have been properly canvassed and it would be quite in order for His Honour to put the question.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

### YUKON BILL

#### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Christensen, seconded by the Honourable Senator Léger, for the third reading of Bill C-39, to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Honourable senators, in rising to speak at third reading of Bill C-39, I should like to make the preliminary observation that the debate in this chamber at third reading stage has been very helpful.

Our colleague Senator Watt has sensitized this house to a number of concerns that some First Nation persons have with regard to this bill to replace the Yukon Act. On the other hand, the Leader of the Government in the Senate has advised us that all 14 Yukon First Nations, the Kaska Nation, the Yukon government and the federal government negotiated the devolution transfer agreement which sets out terms of the transfer of land and resource management powers from the federal government to the Yukon government.

We were helped by our colleague Senator Beaudoin, who explained to us that the power exercised by the Yukon government is power delegated to the Yukon from the federal authority. This is a situation quite different from the power acquired by the Nisga'a in the legislation that was before this house some time ago and which, as honourable senators will recall, was not simply a delegation of jurisdiction but, rather, a new order of government, in the words of some.

The question of the constitutionality of the bill has been canvassed at third reading. I take guidance from my colleague Senator Beaudoin, who has advised us that by his analysis, the bill appears, on balance, to be constitutional.

On the other hand, Senator Watt has clearly underscored that the 1870 commitment is very real and has not disappeared. I think there is common acceptance of that point. I did not hear the Leader of the Government in the Senate say that this was an obligation. Indeed, I think I heard her say the opposite.

As the debate at third reading began, it might have been helpful to have the bill referred to the Standing Senate Committee on Legal and Constitutional Affairs to examine those questions. However, upon hearing the fulsome debate at third reading, I feel that we probably have sufficient justification for adopting the bill. If we are wrong, which we might be — there is still that doubt — the courts will advise us.

In her address at third reading, Senator Cochrane provided a good analysis of the history and of the challenge that continues to confront the parties. I am now satisfied that the parties to the ongoing land discussions include, *in situ*, the Yukon government with the delegated authority, as we were reminded by Senator Beaudoin. It is happening on the ground and all parties are involved.

I am satisfied that it would be best to accept the bill as is, with the caveat that there is a possibility of problems with it. There are certainly many challenges. We can only encourage those who are party to the negotiations to find an equitable resolution.

In the process, Senator Beaudoin identified the problem of the application of the Official Languages Act. It is not the statute itself that is the problem; it is the agreement. It is not an ordinary agreement. The agreement discusses how powers will be exercised quasi-legislatively. It is in the interest of all that this question be examined so that in the future, if agreements that are part of the transfer of jurisdiction are associated with the bill, perhaps the agreements should be crafted in both official languages. That does not, however, impede the integrity of the bill as it is currently before us.

• (1921)

**Hon. Nicholas W. Taylor:** As chair of the committee, I would like to thank the honourable supporters for their support. We flew people in from the Yukon, both government and Aboriginal people. The debate that took place within our committee was almost identical to what took place in the chamber. I look on it as

a confirmation of the pertinence of committee work. I suppose we could have had it all take place here in the chamber, but the fact that, at third reading and report stage, the Senate went through the same process as we did and came to the same conclusion gives us a certain amount of satisfaction. It shows that the committee system works.

**The Hon. the Speaker:** Honourable senators, it was moved by the Honourable Senator Christensen, seconded by the Honourable Senator Léger, that this bill be read the third time.

Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## COURTS ADMINISTRATION SERVICE BILL

### THIRD READING—DEBATE SUSPENDED

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Sibbeston, for the third reading of Bill C-30, to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

**Hon. Serge Joyal:** Honourable senators, I should like to join my colleagues in this debate because an important question has been raised. Bill C-30 is a bill to establish a body to provide administrative services to the Federal Court of Canada, the Tax Court of Canada and the Court Martial Appeal Court of Canada.

For the first time, this bill will unify the administration of those courts that, until now, were administered on different grounds. I raise this point because we on the committee did what I would call a fast-track study of that bill. We concluded our study on the bill, including questioning, in just one meeting.

Many elements were brought to our attention that, in my opinion, need to be reviewed. We were led to believe that the bill was essentially the conclusion from the Auditor General's report of 1997, or that it was a model similar to the one followed by the Supreme Court of Canada, or a model similar to the Federal Court of Australia that, in the opinion of the witness and some members of the committee, were very satisfactory.

I did review the report of the Auditor General of Canada and, in fact, the bill does not include the model suggested by the report of the Auditor General of Canada.

Honourable senators, the report of the Auditor General of Canada reads, in section 247:



[Translation]

The Federal Court prefers to acquire administrative autonomy in the same way as the Supreme Court of Canada.

[English]

In other words, the Auditor General would like the new services of the united court to be similar to those of the Supreme Court of Canada. What is the model at the end that the Auditor General of Canada proposed? It is a model referred to in paragraph 250 of the report, which states:

[Translation]

It could perhaps create a body for the provision of services to the courts similar to those referred to in Annex 11-C of the report.

[English]

What is the proposal of the Auditor General Canada? The annex of the report, 11(c), states clearly that a management committee should be established. That management committee should be composed of the following people: judges, lawyers and eminent citizens. That is the body that should answer to Parliament regarding the funds of the administration and the way the courts are administered. The model proposed in Bill C-30 does not include that management committee. It is the chief administrator who communicates directly with the minister, and the report is tabled in Parliament. It is not right to conclude that the bill, in fact, enshrines the proposal of the Auditor General of Canada.

The bill does not include the model followed by the Supreme Court of Canada. Let us take the Supreme Court of Canada Act. The act establishing the Supreme Court of Canada does not provide for any term of appointment for the registrar of the court, while Bill C-30 provides for a limited term of five years. We raised this point in the committee, but some senators did not want to pursue it at that point in time. They were satisfied with that section of the bill. I agree that it might be satisfactory, but it is certainly not the same model as that of the Supreme Court of Canada.

The Supreme Court of Canada does not have an obligation to report to the Parliament of Canada. There is absolutely no provision in the Supreme Court of Canada Act that provides for the court to table a report in Parliament, while Bill C-30 provides for that. The report of the Auditor General of Canada, in section 247, indicates that the Federal Court wants to have the same autonomy as the Supreme Court of Canada, but that is certainly not reflected in the Supreme Court of Canada Act.

I see my friend Senator Beaudoin saying that we have a report of the Supreme Court of Canada. No, we do not have a report of the Supreme Court of Canada. I checked with the registrar on that point. There is no annual report of the administration of the Supreme Court of Canada tabled in Parliament.

[ Senator Joyal ]

Honourable senators, my next point is with regard to the Australian Federal Court, as it has been suggested that this is the model we are following. I took the Australian Federal Court Act and reviewed it. It states clearly that the registrar of the Federal Court of Australia is appointed at the suggestion of the chief justice of the court. This is not our proposal. Our proposal is consultation of various chief justices. You know what happens when there is a conflict between justices: The minister is the last arbitrator and he or she will appoint the person whom they consider to be the best person. However, it is not the same as the Australian model. Moreover, the report is prepared by the chief justices. It is not prepared by the registrar or the chief administrator, in the federal Australian model. That is very clear. I have the Federal Court of Australia Act here. The registrar is appointed by the Governor General on nomination by the chief justice. In other words, the chief administrator — the registrar — is appointed by the chief justice. As I mentioned, there is no provision for the registrar to table a report in Parliament and to be answerable in Parliament the way that we were led to believe would happen in Bill C-30. This is a major difference with the Australian Federal Court.

My next point, honourable senators, concerns the chief administrator. We were led to believe that the chief administrator is someone who would be responsible, more or less, for maintenance of the court facility. That person would check the ventilation system and whatever else is important for the court to function, but the chief administrator has a status greater than that. He is similar to a deputy head of public administration. He is the CEO of the administration. He must satisfy the needs of three different courts.

Honourable senators, it is time for the deferred vote, so I will stop.

Debate suspended.

**The Hon. the Speaker:** Honourable senators, it being 9:30 a.m., pursuant to the order adopted by the Senate on March 26, 2002, I interrupt the proceedings for the purpose of disposing of the amendment to Bill C-49. The bells to call in the senators will be sounded for thirty minutes. The vote will take place at 10:00 a.m.

Call in the senators.

• (1000)

## BUDGET IMPLEMENTATION BILL, 2001

### THIRD READING—DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Léger, for the third reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.



And on motion in amendment of the Honourable Senator Kinsella, seconded by the Honourable Senator Lynch-Staunton, that the bill be not now read a third time but that it be amended in clause 5, on page 14, by replacing lines 39 to 43 with the following:

“(ii) an individual under twelve years of age or sixty-five years of age or older.”.

Motion in amendment negatived on the following division:

YEAS  
THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Keon
Beaudoin	Kinsella
Buchanan	Lynch-Staunton
Comeau	Murray
Di Nino	Rivest
Dooddy	Taylor
Eyton	Tkachuk—17
Johnson	

NAYS  
THE HONOURABLE SENATORS

Austin	Joyal
Banks	LaPierre
Bryden	Lapointe
Carstairs	Léger
Chalifoux	Losier-Cool
Christensen	Mahovlich
Cook	Milne
Cools	Morin
Corbin	Pearson
Cordy	Pépin
Day	Poulin
De Bané	Poy
Fairbairn	Robichaud
Fitzpatrick	Rompkey
Fraser	Stollery
Furey	Tunney
Gill	Watt
Graham	Wiebe—37
Hubley	

ABSTENTIONS  
THE HONOURABLE SENATORS

Nil

## COURTS ADMINISTRATION SERVICE BILL

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Bryden, seconded by the Honourable Senator Sibbeston, for the third reading of Bill C-30, to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts.

**Hon. Serge Joyal:** Honourable senators, I would remind you that my first argument in relation to Bill C-30, to establish a body that provides administrative services to the four federal courts, is that the model included in the bill is not the model proposed by the Auditor General of Canada, nor the model provided in the Supreme Court of Canada Act, nor the model of the federal Australian court. I have illustrated by quotations from the Auditor General's report or the respective acts that we do not find in Bill C-30 comparable sections that would sustain the conclusion that the bill is just enshrining one or the other of those models.

My second point is about the role of the chief administrator. The chief administrator is the head of the new joint services and has the mandate to provide all the services needed by these courts to function normally. The chief administrator is not there merely to ensure that there is a courtroom in general, and that it is air-conditioned in the summer and heated in the winter. As mentioned, the chief administrator has the status of a deputy head, which is one of the highest levels in federal public administration. That means he or she is, according to the act, section 7, the chief executive officer of the new service. In other words, he or she is the CEO of that service, not a janitor or a maintenance person. The chief administrator is furnished with all the powers necessary for the overall management and administration of all court services, including “court facilities, libraries, corporate services and staffing.” That is much more than ensuring the heating system is on.

The incumbent in this position is key because he or she will have to reconcile the needs of four different courts. He or she will have to arbitrate and be in constant contact with the chief justices, the 50 justices involved in the Federal Court, the Tax Court, and the Court Martial Appeal Court, in order to be able to function properly. He or she is a key person in the management of the efficiency of the court service and the court in general. I want to stress that we were led to believe that the status of that person would be that of a second-ranked civil servant when, in fact, he or she will be at the top of the list.

My third point is about the consultation of the judges in the drafting of the bill. Questions were put to the witnesses about the consultation with the representative of the judges to define that section of the bill. It was a question put to Ms. Bellis by Senator Andreychuk, and I quote from the transcript of the proceedings of the committee:

The model that we have proposed for the tenure of the chief administrator was one that they agreed struck the balance between their necessary area of judicial control and the need for an administrator who would continue to be effective.

rooms and direction of the administrative staff performing these duties...

[English]

I asked to be provided with confirmation of the agreement to the bill by the various representatives of the judges of the four courts. The witness, Ms Bellis, took it upon herself to consult and to report to us on time to the effect that the judges agree with the bill. I asked that question specifically the morning we voted clause by clause on that bill. So far, we have not been provided with that formal confirmation. I do not wish to doubt the words or statement of the witness, but so far we have not seen it.

Honourable senators, this bill is a serious one and needs thorough discussion.

**Hon. A. Raynell Andreychuk:** Honourable senators, Senator Robichaud has prevailed upon me to speak today in the spirit of cooperation so that we can be expeditious in our work. I will put some comments on the record today. I would have preferred to have had more time to reflect on this bill.

I wish to associate myself with the comments made by Senator Joyal. In this bill we were not dealing with an administrative matter or an issue that efficiency should rule; the fundamental issue here was judicial independence.

Having presided as a judge at a time when the administration of the government and the administration of the courts were one and the same and having had to fight for independence, I speak with some authority on this issue.

The act of administration for the courts has a profound effect on the independence of a judge within his courtroom. A judge handling a case is dependent on the administration to provide the necessary tools, the necessary time, the necessary building, the necessary hours and the necessary ambiance — if I can call it that to shorten my debate — in the courtroom. All of that goes to supporting and facilitating people's understanding of their need for justice.

If we are crammed, if we are tight in time, if we delay hours, days or weeks, justice is not served in many cases. Most of the judges I have dealt with are very concerned that they be given full discretion to conduct the court according to the rules and good judicial practices.

However, I have seen the pressures put on governments. They have many competing interests and, particularly when there is a shortage of resources, cost-cutting becomes the key. The judiciary must have its fair share of the burden of cost-cutting. Administrators are less concerned about the consequences to justice than they are to the efficiency and the effectiveness of the administration. While hopefully both are one and the same, they are not necessarily the same in every case.

This bill establishes an administrative process that I believe separates the government from the judicial arm better than we have had in the past. However, I do not believe, as Senator Joyal says, that we have reflected on whether it is the most desirable and the best possible practice. There is a variance from the Supreme Court and from other jurisdictions struggling with this issue.

Finally, honourable senators, it is a fundamental bill. It restructures the Federal Court in two different ways: the trial division for civil and penal cases, and the appeal court for civil and penal cases. The Federal Court has been in operation since 1875, since the first Exchequer Court of Canada was established according to our Constitution. It is the first time we have come to the conclusion that the appeal division should be separated from the trial division. This decision is very important. The committee did not canvass that proposal in the bill. The bill contained two sections that established the Tax Court as a superior court, that is "une cour d'archives et d'amirauté," which is essentially a level of a superior court in a province and the level of the Federal Court. This decision for the Tax Court is very important after so many years in operation. We in the committee, being a collective "we," did not go into the details. We were called upon to do a clause-by-clause vote on the bill.

Honourable senators, I am not opposed to the bill. I will support it. I want to draw your attention to the fact that adopting a bill in one session leaves questions pending. In all fairness, I do not wish to impute any motive to any member of the committee because the committee does its work very well, but there are elements in statements by the witnesses that are important.

• (1010)

Our committee reviewed the judgment of the famous P.E.I. case where the principle of independence of the judiciary was very well stated by the Supreme Court. The judgment read:

[Translation]

...the essential aspects of institutional independence as may reasonably be seen to be sufficient...

The essential minimum was defined as the power by the courts to make decisions concerning the following matters:

...the assignment of judges to cases, court sittings, the role of the court and the related matters of allocation of hearing

[ Senator Joyal ]



In my opinion, there are elements of this administration that point out that the final say will be with the government and not with the judiciary, despite the fact that the chief judges of the various jurisdictions will have input. If there is a conflict with the government, the dispute-resolution mechanism appears to put the weight on the side of the judges as opposed to the government. However, the chief administrator who serves at the pleasure of the government must take that job from day one and understand who is his or her boss, in essence. This administrator cannot avoid the fact that he or she holds that office at pleasure.

As we have said to our auditors, our ethics counsellors and all of the tribunals that have been set up, for justice to be seen to be done, there must be independence. At first blush, this bill appeared to include independence. However, when one looks at the way the bill is drafted and the pressures that will be put on this administrator, I think there would be a chilling effect on the person who takes the job if the government was to go in one direction and the judges were to go in another on a particular issue of administration. In the end, if the judges prevail, one wonders what the attitude of the government will be toward that administrator's capability of putting their opinion forward fully and forcefully.

Another concern is that it would appear that negotiations to this point and the consequent results occurred over a long period of time, which implies that there were differences of opinion that had to be compromised. We did not delve into what extent these compromises were worked out appropriately. To what extent were the ordinary judges, represented by the chief justices, consulted? We did not delve into in great detail the variance of opinion that they may have concerning their roles.

I would like to have done a comparison of the courts in Canada, particularly those that have struggled for more judicial independence, to see whether this model is helpful. I am left with the feeling that this is not the model that we will ultimately have to reach for if we care for independence. Surely the best model was the one advocated by a court process in which I was involved, that the courts should negotiate a sum of money. While the courts should be open and transparent as to how they use that money, the courts should ultimately determine how that money is allocated. The administration of the courts should be undertaken solely by the judges rather than in this joint and convoluted manner.

Honourable senators, we have a long way to go before we have a system where judges are totally independent. I am hopeful that the good people in the system will keep this in mind and that the government will undertake to assure the public, Parliament, and more particularly the administrator that he or she can act using their best professionalism and not be interfered with in their role as administrator. I hope that the government rethinks this appointment at pleasure for a time limit of five years and extends the time to perhaps a 10-year period for an administrator to work without interruption and without this constant knowledge that he or she can be pulled out of the job at any time.

That is my rambling statement on the issues. At a later time, either in the committee or in consultations with the Minister of Justice, perhaps we can continue to push for more judicial independence. I cannot think of anything more important for the Canadian government. Canada sends judges all over the world, and we preach to other countries that the hallmark of good governance and democracy is a totally independent judiciary. We must, ourselves, be able to withstand that test.

• (1020)

Honourable senators, I am left with some doubts about this bill. However, I will support it on the basis of what the department said about having wrestled with this matter for some time and their wanting to move on with it. I hope that after the bill is passed the department will take this as step one in a continuous reassessment of ultimately attaining an independent judiciary.

**The Hon. the Speaker *pro tempore*:** Is the house ready for the question?

**Hon. Senators:** Yes.

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read third time and passed.

## BUDGET IMPLEMENTATION BILL, 2001

### THIRD READING

On the Order:

Resuming debate on the motion of the Honourable Senator Cools, seconded by the Honourable Senator Léger, for the third reading of Bill C-49, to implement certain provisions of the budget tabled in Parliament on December 10, 2001.

**Hon. Gerald J. Comeau:** Honourable senators, when I was asked to be a member of the committee examining this bill, I did not hesitate. As a matter of fact, I was surprised the bill had reached committee stage. I say that because when I looked at its measures, I had to agree with Senator Murray who said that the bill looks like it was improvised and done on the fly. At least that is how it appeared to me.

I thought that the Liberals would have put the brakes on it well before it reached committee stage. This bill is out of touch. It has nothing to do with what should be before us. Senator Ferretti Barth summed it up best when she referred to the impact this bill will have on seniors and youngsters who will have to bear the brunt of this new \$24 tax.



Small communities and labour will be impacted by this bill. If there is one area in which we should have good labour relations it is in the area of the security and the protection of travellers. Yet reasonable requests made by labour concerning successor rights and other measures for good labour relations, such as representation on the board of the authority, were not even considered.

My attendance at the committee was a real eye-opener. One of the first questions I asked Minister Collenette was: Did you do an impact study of this bill on small communities in Canada? His blunt answer was, "No, we did not do it. We are just imposing a tax of \$24."

**Senator Kinsella:** He is from Toronto.

**Senator Comeau:** That is a good point that I will get to later.

**Senator Cools:** It is a good place to be from. I am from Toronto. Long live Toronto!

**Senator Comeau:** Senator Cools says it is a good place to be from. I will come back to that in a moment.

Minister Collenette said that there was no impact assessment at all of this decision. I also asked about the impact on small airports throughout Canada, airports from which many of us in this place have to travel. I see honourable senators on both sides nodding their heads. Yes, we have to travel to distant places every week. Most of us try to reach our communities every week so as to sense the impact legislation will have on the lives of people in our communities.

I will not name all the smaller places that will be affected. However, places like Îles-de-la-Madeleine, Fredericton and Sydney are among them. There are dozens of others on the list of airports that will now have to levy a brand new flat tax on each member of the travelling public.

Honourable senators, I should like to talk about Yarmouth, which is a community in my home area. Its airport has been struggling for the last number of years since the devolution of airports to local airport authorities. It is a marginal airport. It tries its best to entice travellers to travel out of Yarmouth. By having an airport with airplanes flying out of Yarmouth, we are able to get products such as fresh fish and lobster to market. Minister Collenette says, "We have not done an evaluation of the impact this bill will have on Yarmouth." Basically, he said, "Do not worry. If, down the road there is an impact, we will look at it and see what we can do." If the airport is no longer there at that time, it will be too late.

We pointed out the fact that airports are everyone's business. They are no longer the business of just the travelling public. I will tell honourable senators why. The lobster and the fresh fish

that are shipped out of Yarmouth on those airplanes are products of fishermen who may never travel. What about the fish plant workers who may not travel? Their products are shipped by air. Thus, the impact is felt by the whole community, whether they be hairdressers or teachers, who may never travel. Yet the impact of losing an airport has an impact on all these people.

To me, this measure is an abandonment of small communities. It is the type of thing we could expect from the Reform-Alliance in the other place, not from the Liberal Party, not from the party of Pierre Trudeau and Lester Pearson, people who believed in our communities. I must point out that I have not always agreed with former Liberal prime ministers. However, former Prime Ministers Pearson, Trudeau and many others in the past believed in our communities. They would never abandon them.

Honourable senators, we cannot even have an impact assessment. That is not the tradition of Liberals whom I have respected. Even though I am of a different political persuasion, I never expected this party to come to this place with policies the likes of which were put forward by Margaret Thatcher, Preston Manning and the like.

I read in the newspaper the other day that Margaret Thatcher will no longer do speaking tours. If Prime Minister Jean Chrétien ever decides to retire, perhaps we could get him to replace Margaret Thatcher on these speaking tours.

**Hon. Noël A. Kinsella (Deputy Leader of the Opposition):** Are you supporting Mr. Rock or Mr. Martin?

**Senator Comeau:** Neither one at the moment. However, I will be listening to Mr. Martin and Mr. Rock to see which one wishes to come back to the proud Liberal traditions of the past, those Liberal traditions of the past that we could respect. I will be listening to the discussions as the leadership race progresses to determine which of the two I will support.

• (1030)

Let us come back to the eye-opener committee hearing. We had two ministers in front of us telling us why we should be supporting this bill. Those two ministers happen to be from Toronto, as is the sponsor of the bill in the Senate.

**Some Hon. Senators:** Oh, oh!

**Senator Comeau:** This is the picture of Canada that the Liberal Party now wants us to accept. It reminds me of the old joke: How do you change a light bulb in Toronto? Somebody lifts a hand in the air with a bulb and the world turns around.

There is a flight from Ottawa to Toronto every hour on the hour. Let's have more flights from Ottawa to Toronto, and let's forget all the little communities, as the Liberals want us to do.

Many senators in this chamber travel to small communities week after week. I am glad that many of the senators are doing this because they know, unlike those who travel to Toronto, what a \$24 tax will do to those communities. All around this place, on both sides, I recognize that those senators know how this will impact on their constituents.

Senator Kinsella raised the point yesterday, and I would like to repeat it, that airport security is everybody's business. It is not only the concern of travellers. User pay, market forces and laissez-faire did not build this great country. Those are not what built this great country of ours. We built this country with respect for all communities throughout Canada.

Honourable senators, the steelworkers appeared before our committee, and they made some very reasonable requests. They wanted successor rights and representation on the board of the new authority. Yesterday Senator Cools read a letter from the minister, wherein he stated that he would consult with organized labour and appoint a member who is sensitive to the goals of organized labour. What a bunch of something!

**Senator Cools:** Shame, shame!

**Senator Comeau:** Senator Beaudoin tells me not to use the word because it would not be polite.

It is a crock. This is no way to respond to the very reasonable request of labour. Reasonable people would go out of their way to accommodate them. A government that had thought this through would have gone out of its way to respond to labour's concerns, especially in regard to airports. These are front line people upon whom we must rely for our security. Surely they deserve a voice on the authority's board that they can trust.

Now we will have workers who are unhappy with decisions made by the authority. Honourable senators, the last thing I want is dissatisfied security people at the airport. That is the last thing anybody in Canada would want. Their request could be accommodated so easily. Just give them representation on the board. It is, as I said, a very reasonable request.

Honourable senators, I will in no way shape or form be reassured by the passage of this bill. We have an opportunity in this chamber to send a message to government that we understand what people appearing before our committee are telling us. I would ask, honourable senators, for you to join with me in passing a motion in amendment that would at least send the message that we are listening to our witnesses.

[Translation]

#### MOTION IN AMENDMENT

**Hon. Gerald J. Comeau:** I move:

That the bill be not now read a third time, but that it be amended in clause 2, on page 6, by replacing lines 5 to 9 with the following:

"ment as directors, two must be nominees submitted by the representatives of aerodrome operators designated under that section whom the Minister considers suitable for appointments as directors, and two must be nominees submitted by the bargaining agent that represents the greatest number of screening offices employed at aerodromes in Canada whom the Minister considers suitable for appointment as directors"

**The Hon. the Speaker *pro tempore*:** Is it your pleasure, honourable senators, to adopt the motion in amendment?

**Some Hon. Senators:** No.

**Some Hon. Senators:** Agreed.

[English]

**The Hon. the Speaker *pro tempore*:** On the motion in amendment, those in favour will please say yea.

**Some Hon. Senators:** Yea.

**The Hon. the Speaker *pro tempore*:** Those opposed will please say nay.

**Some Hon. Senators:** Nay.

**The Hon. the Speaker *pro tempore*:** In my opinion, the nays have it.

*And two honourable senators having risen:*

**Hon. Bill Rompkey:** Is there agreement for a 15-minute bell?

**The Hon. the Speaker *pro tempore*:** There is agreement for a 15-minute bell.

Call in the senators.

• (1050)

Motion in amendment negated on the following division:

YEAS  
THE HONOURABLE SENATORS

Andreychuk	Kelleher
Atkins	Keon
Beaudoin	Kinsella
Buchanan	Lynch-Staunton
Comeau	Murray
Di Nino	Rivest
Doody	Tkachuk—15
Johnson	

NAYS  
THE HONOURABLE SENATORS

Banks	Joyal
Carstairs	LaPierre
Chalifoux	Lapointe
Christensen	Léger
Cook	Mahovlich
Cools	Milne
Corbin	Morin
Cordy	Pearson
Day	Pépin
De Bané	Poulin
Fairbairn	Poy
Ferretti Barth	Robichaud
Fitzpatrick	Rompkey
Fraser	Sparrow
Furey	Stollery
Gill	Taylor
Graham	Tunney
Hubley	Wiebe—36

ABSTENTIONS  
THE HONOURABLE SENATORS

Watt—I

[Translation]

**Hon. Laurier L. LaPierre:** Honourable senators, I would like to make a correction to today's Notice Paper. On page 3, in connection with the motion by Senator Cools for third reading of Bill C-49, the English version reads:

[English]

...seconded by the Honourable Senator Léger...

[Translation]

The French version reads:

[The Hon. the Speaker pro tempore]

...seconded by the Honourable Senator LaPierre...

Referring to the *Journals of the Senate* for Tuesday, March 26, 2002, page 1387, we see that I seconded the motion by Senator Cools for third reading of Bill C-51. On page 1388, Senator Léger seconded the motion by Senator Cools for third reading of Bill C-49.

I would request a correction to the Order Paper to this effect. I would like to thank my advisors in this: Senators Day and Cools, and the Clerk of the Senate.

[English]

**The Hon. the Speaker pro tempore:** Honourable senators, it was moved by the Honourable Senator Cools, seconded by the Honourable Senator Léger, that Bill C-49 be read the third time. Is it your pleasure, honourable senators, to adopt the motion?

**Some Hon. Senators:** Agreed.

**An Hon. Senator:** On division.

Motion agreed to and bill read third time and passed, on division.

[Translation]

ROYAL ASSENT

NOTICE

**The Hon. the Speaker pro tempore** informed the Senate that the following communication had been received:

RIDEAU HALL

March 27, 2002

Mr. Speaker,

I have the honour to inform you that the Honourable Ian Binnie, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy of the Governor General, will proceed to the Senate Chamber today, the 27th day of March, 2002, at 11:30 a.m., for the purpose of giving Royal Assent to certain bills.

Yours sincerely,

Barbara Uteck  
*Secretary to the Governor General*

The Honourable  
The Speaker of the Senate  
Ottawa



## NATIONAL ACADIAN DAY BILL

### SECOND READING

On the Order:

Resuming debate on the motion of the Honourable Senator Comeau, seconded by the Honourable Senator Bolduc, for the second reading of Bill S-37, An Act respecting a National Acadian Day.—(*Honourable Senator Losier-Cool*).

**Hon. Rose-Marie Losier-Cool:** Honourable senators, I must extend my congratulations to Senator Comeau. His Bill S-17 institutes August 15 as National Acadian Day. I support this bill with pleasure.

In 1881, at the first Acadian national convention, held in Memramcook, New Brunswick, Acadians selected August 15 as their national day.

In 1604, the first settlers set foot on what is today Nova Scotia, with hopes of establishing a colony there. They could never have imagined that their exploits would be celebrated with so much enthusiasm 400 years later. In Acadia, preparations have been under way for some time now for the celebration of the 400th anniversary of the arrival of those first French settlers on Canadian and Acadian soil.

The World Acadian Congress will be held in Nova Scotia from July 31 to August 15, 2004. This third international assembly of Acadians will draw attention to the cultural, economic and social vitality of the Acadians of Nova Scotia within Canadian society. All recognition of the contributions the Acadian people has made to Canadian society is richly deserved.

Honourable senators, I would very much like to see the bill retain the French name of the national day in its English version, that is August 15, Fête nationale des Acadiens et des Acadiennes.

[*English*]

I know this bill will go to committee and I strongly urge members of the committee to study it attentively to ensure that the correct wording is used to respect the full sense and meaning of the bill in both official languages.

[*Translation*]

**Hon. Eymard G. Corbin:** Honourable senators, I wish to indicate my support of this bill. I have spoken with Senators Robichaud and Losier-Cool, but have unfortunately not been able to discuss this with Senator Comeau. This has been a recent development.

I share Senator Losier-Cool's opinion that the French name of the Day should be used in the English version. At first glance, the

English meaning is not at all the same as the French. It would be important, as suggested by Senator Losier-Cool, for the committee to examine this matter carefully. I would ask Senator Comeau to subscribe to this view as well, if he can see his way clear to do so.

It is important to preserve the special cachet of this day, which concerns the Francophonie. There ought not to be any transposition into another language of what makes this event unique.

This practice is followed elsewhere. For instance, McCain Foods does not get changed to Nourriture McCain, and so on. This designation has its own particular flavour, and I would therefore like to see the French title of the Day retained in the English version.

[*English*]

**The Hon. the Speaker:** Honourable senators, if the Honourable Senator Comeau speaks now, his speech will have the effect of closing the debate.

[*Translation*]

**Hon. Gerald J. Comeau:** Honourable senators, we can examine and correct these matters in committee.

I am totally in agreement with retaining the value of the original expression, la Fête nationale des Acadiens et des Acadiennes, keeping it in the mother tongue of that event. The bill ought to emphasize this in a very meaningful way. I am fully in agreement on that.

I would again like to thank Senator Losier-Cool for this initiative to have la Fête nationale des Acadiens et des Acadiennes recognized, and for having motivated us to do so. I also thank her for referring to the festivities planned for 2004. All senators, indeed all Canadians, are invited to join with the Acadians of Nova Scotia and the rest of the Maritimes in celebrating this very special event.

That said, I would move that the bill be referred to the Social Affairs, Science and Technology Committee, for an in-depth analysis and the required corrections.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to and bill read second time.

REFERRED TO COMMITTEE

**The Hon. the Speaker:** Honourable senators, when shall this bill be read the third time?

On motion of Senator Comeau, bill referred to the Standing Senate Committee on Social Affairs, Science and Technology.

[English]

## FOREIGN AFFAIRS

BUDGET—STUDY ON EMERGING DEVELOPMENTS IN  
RUSSIA AND UKRAINE—REPORT OF COMMITTEE—  
DEBATE CONTINUED

On the Order:

Resuming debate on the motion of the Honourable Senator Stollery, seconded by the Honourable Senator Morin, for the adoption of the twelfth report of the Standing Senate Committee on Foreign Affairs (budget—study concerning Russia and Ukraine), presented in the Senate on March 25, 2002—(*Honourable Senator Andreychuk*).

**Hon. A. Raynell Andreychuk:** Honourable senators, in light of the fact that Senator Stollery referred to me yesterday in his comments on this report, something which is not usually done in our practice, I wish to put some things on the record.

The Standing Senate Committee on Foreign Affairs has been pursuing our order of reference dealing with Russia and Ukraine, a significant part of the world with regard to stability and peace in Europe, and therefore North America. Also, Canada has a substantial immigrant population from that area of the world.

As Senator Stollery pointed out, our study has been ongoing for quite some time and we have heard from many witnesses. We would have proceeded more expeditiously on that study had we not interrupted it to conduct a study on NATO, which was extremely valuable. Thereafter, we returned to the Russia and Ukraine study. We received much evidence in Canada, but, before completing our report, it will be valuable to the committee to hear from the policy-makers and the people in Russia and Ukraine who will lead their countries in the appropriate direction in the future.

• (1110)

It is the practice of the Senate to utilize steering committees so that the senators who sit on both the opposition and the government sides can have a say in the conduct of the committee. Steering committees take into account the opposition. In this place we have a tradition that both parties must be taken into account in an attempt to reach a consensus.

Senator Stollery has put his comments on the record. By and large, I agree with them. He made certain decisions; they were not made by the steering committee. These were then confirmed in some cases with the full committee where, of course, there are eight Liberal senators and four Progressive Conservative senators.

When the trip was delayed, I contacted the clerk, as I could not reach Senator Stollery at the beginning of January. The indication was that Senator Stollery wished to take this trip in May. I

disseminated that information to the members on this side and reconfirmed it when the session started. As a result, many of us began clearing our schedules for May.

Senator Stollery indicated that he needed to move the date back to April, and April 8 was chosen. We continued to indicate that May was our preferred time, and I believe that continues to be our position. However, Senator Stollery said he did his own canvassing of members, not through the steering committee, and came to the conclusion that April 8 was not a good date. He moved it to April 15.

I fully understand the difficulty of trying to manage senators and their schedules, but I am also very conscious of how difficult it is on this side to manage committees, as there are few of us and our numbers are decreasing. As a result, I suggested that all our work go through the steering committee.

The last steering committee meeting was on March 19, 2002. After indicating the difficulty for senators on this side with regard to the dates set, I am recorded as saying:

Senator Andreychuk also mentioned the contribution of the Conservative members, Senators Di Nino, Bolduc and herself, to the study on Russia and Ukraine. She pleaded with the Chair to reconsider the dates and to reconvene a meeting of the committee to change the decision. She offered alternate dates in April.

She offered May and, in fact, any time thereafter. The decision, however, was to stay by the dates.

Senator Corbin appropriately summed up the steering committee meeting by saying:

Politics is the art of compromise.

From our side, we believe the study is extremely important. We believe that the study has been in progress, and that we must find a suitable time for those senators on both sides who have contributed over two years.

Dates are not the only difficulty for our side. Of those senators who were initially chosen to travel, as the entire committee would not, two of the Liberal senators cannot go and one senator can go only for part of the time. I fully appreciate the manageability of numbers and the ability to manoeuvre from the Liberal side, and I do not wish to comment on that. I simply say that the position from this side is that we believe the trip is necessary, and that Senator Stollery was right to convince the Standing Committee on Internal Economy, Budgets and Administration that this trip should be a priority. We thank him for that. We continue to seek ways and means to deliver a compromise that will be in the best interests of the Senate.

On motion of Senator Andreychuk, debate adjourned.

The Senate adjourned during pleasure.

• (1130)

[Translation]

### ROYAL ASSENT

The Honourable Ian Binnie, Puisne Judge of the Supreme Court of Canada, in his capacity as Deputy Governor General, having come and being seated at the foot of the Throne, and the House of Commons having been summoned, and being come with their Acting Speaker.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the following bills:

An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts (*Bill C-39, Chapter 07, 2002*).

An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts (*Bill C-30, Chapter 08, 2002*).

An Act to implement certain provisions of the budget tabled in Parliament on December 10, 2001 (*Bill C-49, Chapter 09, 2002*).

The Honourable Bob Kilger, Deputy Speaker of the House of Commons, then addressed the Honourable the Deputy Governor General as follows:

May it please Your Honour.

The Commons of Canada have voted certain supplies required to enable the Government to defray the expenses of the public service.

In the name of the Commons, I present to Your Honour the following bills:

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002 (*Bill C-51, Chapter 05, 2002*).

An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003 (*Bill C-52, Chapter 06, 2002*).

To which bills I humbly request Your Honour's assent.

The Honourable the Deputy Governor General was pleased to give the Royal Assent to the said bills.

The House of Commons withdrew.

The Honourable the Deputy Governor General was pleased to retire.

The sitting of the Senate was resumed.

### ADJOURNMENT

Leave having been given to revert to Government Notices of Motions:

**Hon. Fernand Robichaud (Deputy Leader of the Government):** Honourable senators, with leave of the Senate and notwithstanding rule 58(1)(h), I move:

That when the Senate adjourns today, it do stand adjourned until Tuesday, April 16, 2002, at 2 p.m.

**The Hon. the Speaker:** Is it your pleasure, honourable senators, to adopt the motion?

**Hon. Senators:** Agreed.

Motion agreed to.

The Senate adjourned until Tuesday, April 16, 2002, at 2 p.m.





**THE SENATE OF CANADA**  
**PROGRESS OF LEGISLATION**  
**(1st Session, 37th Parliament)**  
**Wednesday, March 27, 2002**

**GOVERNMENT BILLS**  
**(SENATE)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-2	An Act respecting marine liability, and to validate certain by-laws and regulations	01/01/31	01/01/31	—	—	—	01-01-31	01-05-10	6-01
S-3	An Act to amend the Motor Vehicle Transport Act, 1987 and to make consequential amendments to other Acts	01/01/31	01/02/07	Transport and Communications	01/05/03 amended 01/05-09	3	01-05-10	01-06/14	13-01
S-4	A First Act to harmonize federal law with the civil law of the Province of Quebec and to amend certain Acts in order to ensure that each language version takes into account the common law and the civil law	01-01/31	01-02/07	Legal and Constitutional Affairs	01/03/29	0 + 1 at 3rd	01-04-26	01-05/10	4-01
S-5	An Act to amend the Blue Water Bridge Authority Act	01/01/31	01-02-07	Transport and Communications	01-03-01	0	01-03-12	01-05/10	3-01
S-11	An Act to amend the Canada Business Corporations Act and the Canada Cooperatives Act and to amend other Acts in consequence	01/02/06	01/02/21	Banking, Trade and Commerce	01/04/05	17 + 1 at 3rd	01-05-02  Senate agreed to Commons amendments 01/06/12	01-06/14	14-01
S-16	An Act to amend the Proceeds of Crime (Money Laundering) Act	01-02-20	01/03/01	Banking, Trade and Commerce	01-03-22	0	01-04-04	01-06/14	12-01
S-17	An Act to amend the Patent Act	01-02-20	01-03-12	Banking, Trade and Commerce	01-04-05	0	01-05-01	01-06/14	10-01
S-23	An Act to amend the Customs Act and to make related amendments to other Acts	01-03-22	01-05/03	National Finance	01-05-17	11 + 2 at 3rd 01/06/06	01-06-07	01-10-25	25-01
S-24	An Act to implement an agreement between the Mohawks of Kanesatake and Her Majesty in right of Canada respecting governance of certain lands by the Mohawks of Kanesatake and to amend an Act in consequence	01-03-27	01-04-05	Aboriginal Peoples	01-05-10	0	01-05-15	01-06/14	8-01
S-31	An Act to implement agreements, conventions and protocols concluded between Canada and Slovenia, Ecuador, Venezuela, Peru, Senegal, the Czech Republic, the Slovak Republic and Germany for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	01-09-19	01-10-17	Banking, Trade and Commerce	01-10-25	0	01-11-01	01-12-18	30-01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-33	An Act to amend the Carriage by Air Act	01/09/25	01/10/16	Transport and Communications	01/11/06	0	01/11/06	01/12/18	31/01
S-34	An Act respecting royal assent to bills passed by the Houses of Parliament	01/10/02	01/10/04	Rules, Procedures and the Rights of Parliament	02/03/05	4 + 1 at 3rd	02/03/19		
S-40	An Act to amend the Payment Clearing and Settlement Act	02/03/05	02/03/12	Banking, Trade and Commerce	02/03/14	0	02/03/19		
S-41	An Act to re-enact legislative instruments enacted in only one official language	02/03/05	02/03/20	Legal and Constitutional Affairs					

**GOVERNMENT BILLS  
(HOUSE OF COMMONS)**

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-2	An Act to amend the Employment Insurance Act and the Employment Insurance (Fishing) Regulations	01/04/05	01/04/24	Social Affairs, Science and Technology	01/05/03	0	01/05/09	01/05/10	5/01
C-3	An Act to amend the Eldorado Nuclear Limited Reorganization and Divestiture Act and the Petro-Canada Public Participation Act	01/05/02	01/05/10	Energy, the Environment and Natural Resources	01/06/06	0	01/06/12	01/06/14	18/01
C-4	An Act to establish a foundation to fund sustainable development technology	01/04/24	01/05/02	Energy, the Environment and Natural Resources	01/06/06	0	01/06/14	01/06/14	23/01
C-6	An Act to amend the International Boundary Waters Treaty Act	01/10/03	01/11/20	Foreign Affairs	01/12/12	0	01/12/18	01/12/18	40/01
C-7	An Act in respect of criminal justice for young persons and to amend and repeal other Acts	01/05/30	01/09/25	Legal and Constitutional Affairs	01/11/08 negated 01/12/10	11 1 at 3rd 01/12/13	01/12/18	02/02/19	1/02
C-8	An Act to establish the Financial Consumer Agency of Canada and to amend certain Acts in relation to financial institutions	01/04/03	01/04/25	Banking, Trade and Commerce	01/05/31	0	01/06/06	01/06/14	9/01
C-9	An Act to amend the Canada Elections Act and the Electoral Boundaries Readjustment Act	01/05/02	01/05/09	Legal and Constitutional Affairs	01/06/07	0	01/06/13	01/06/14	21/01
C-10	An Act respecting the national marine conservation areas of Canada	01/11/28	02/02/05	Energy, Environment and Natural Resources					
C-11	An Act respecting immigration to Canada and the granting of refugee protection to persons who are displaced, persecuted or in danger	01/06/14	01/09/27	Social Affairs, Science and Technology	01/10/23	0	01/10/31	01/11/01	27/01
C-12	An Act to amend the Judges Act and to amend another Act in consequence	01/04/24	01/05/09	Legal and Constitutional Affairs	01/05/17	0	01/05/29	01/06/14	7/01
C-13	An Act to amend the Excise Tax Act	01/04/24	01/05/01	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	15/01
C-14	An Act respecting shipping and navigation and to amend the Shipping Conferences Exemption Act, 1987 and other Acts	01/05/15	01/05/30	Transport and Communications	01/10/18	0	01/10/31	01/11/01	26/01



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-15A	An Act to amend the Criminal Code and to amend other Acts	01/10/23	01/11/06	Legal and Constitutional Affairs	02/02/19	2 + 1 at 3rd 02/03/12	02/03/19		
C-17	An Act to amend the Budget Implementation Act, 1997 and the Financial Administration Act	01/05/15	01/05/30	National Finance	01/06/07	0	01/06/11	01/06/14	11/01
C-18	An Act to amend the Federal-Provincial Fiscal Arrangements Act	01/05/09	01/05/31	National Finance	01/06/12	0	01/06/12	01/06/14	19/01
C-20	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2001	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	1/01
C-21	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/03/21	01/03/27	—	—	—	01/03/28	01/03/30	2/01
C-22	An Act to amend the Income Tax Act, the Income Tax Application Rules, certain Acts related to the Income Tax Act, the Canada Pension Plan, the Customs Act, the Excise Tax Act, the Modernization of Benefits and Obligations Act and another Act related to the Excise Tax Act	01/05/15	01/05/30	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	17/01
C-23	An Act to amend the Competition Act and the Competition Tribunal Act	01/12/11	02/02/05	Banking, Trade and Commerce					
C-24	An Act to amend the Criminal Code (organized crime and law enforcement) and to make consequential amendments to other Acts	01/06/14	01/09/26	Legal and Constitutional Affairs	01/12/04	0 + 1 at 3rd	01/12/05	01/12/18	32/01
C-25	An Act to amend the Farm Credit Corporation Act and to make consequential amendments to other Acts	01/06/12	01/06/12	Agriculture and Forestry	01/06/13	0	01/06/14	01/06/14	22/01
C-26	An Act to amend the Customs Act, the Customs Tariff, the Excise Act, the Excise Tax Act and the Income Tax Act in respect of tobacco	01/05/15	01/05/17	Banking, Trade and Commerce	01/06/07	0	01/06/12	01/06/14	16/01
C-27	An Act respecting the long-term management of nuclear fuel waste	02/03/05	02/03/20	Energy, Environment and Natural Resources					
C-28	An Act to amend the Parliament of Canada Act, the Members of Parliament Retiring Allowances Act and the Salaries Act	01/06/11	01/06/12	—	—	—	01/06/13	01/06/14	20/01
C-29	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/06/13	01/06/14	—	—	—	01/06/14	01/06/14	24/01
C-30	An Act to establish a body that provides administrative services to the Federal Court of Appeal, the Federal Court, the Court Martial Appeal Court and the Tax Court of Canada, to amend the Federal Court Act, the Tax Court of Canada Act and the Judges Act, and to make related and consequential amendments to other Acts	02/03/05	02/03/12	Legal and Constitutional Affairs	02/03/21	0	02/03/27	02/03/27	8/02
C-31	An Act to amend the Export Development Act and to make consequential amendments to other Acts	01/10/30	01/11/20	Banking, Trade and Commerce	01/11/27	0	01/12/06	01/12/18	33/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-32	An Act to implement the Free Trade Agreement between the Government of Canada and the Government of the Republic of Costa Rica	01/10/30	01/11/07	Foreign Affairs	01/11/21	0	01/11/22	01/12/18	28/01
C-33	An Act respecting the water resources of Nunavut and the Nunavut Surface Rights Tribunal and to make consequential amendments to other Acts	01/11/06 (withdrawn 01/11/21)	01/11/27	Energy, the Environment and Natural Resources	02/03/21	1	02/03/26		
		01/11/22 (reintroduced)							
C-34	An Act to establish the Transportation Appeal Tribunal of Canada and to make consequential amendments to other Acts	01/10/30	01/11/06	Transport and Communications	01/11/27	0	01/11/28	01/12/18	29/01
C-35	An Act to amend the Foreign Missions and International Organizations Act	01/12/05	01/12/14	Foreign Affairs	02/03/13	0			
C-36	An Act to amend the Criminal Code, the Official Secrets Act, the Canada Evidence Act, the Proceeds of Crime (Money Laundering) Act and other Acts, and to enact measures respecting the registration of charities in order to combat terrorism	01/11/29	01/11/29	Special Committee on Bill C-36	01/12/10	0	01/12/18	01/12/18	41/01
C-37	An Act to facilitate the implementation of those provisions of first nations' claim settlements in the Provinces of Alberta and Saskatchewan that relate to the creation of reserves or the addition of land to existing reserves, and to make related amendments to the Manitoba Claim Settlements Implementation Act and the Saskatchewan Treaty Land Entitlement Act	01/12/04	01/12/17	Aboriginal Peoples	02/02/19	0	02/02/20	02/03/21	3/02
C-38	An Act to amend the Air Canada Public Participation Act	01/11/20	01/11/28	Transport and Communications	01/12/06	0	01/12/11	01/12/18	35/01
C-39	An Act to replace the Yukon Act in order to modernize it and to implement certain provisions of the Yukon Northern Affairs Program Devolution Transfer Agreement, and to repeal and make amendments to other Acts	01/12/04	01/12/12	Energy, the Environment and Natural Resources	02/03/07	0	02/03/27	02/03/27	7/02
C-40	An Act to correct certain anomalies, inconsistencies and errors and to deal with other matters of a non-controversial and uncomplicated nature in the Statutes of Canada and to repeal certain provisions that have expired, lapsed, or otherwise ceased to have effect	01/11/06	01/11/20	Legal and Constitutional Affairs	01/12/06	0	01/12/10	01/12/18	34/01
C-41	An Act to amend the Canadian Commercial Corporation Act	01/12/06	01/12/14	Banking, Trade and Commerce	02/02/07	0	02/02/21	02/03/21	4/02
C-44	An Act to amend the Aeronautics Act	01/12/06	01/12/10	Transport and Communications	01/12/13	0	01/12/14	01/12/18	38/01
C-45	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	01/12/05	01/12/17	—	—	—	01/12/18	01/12/18	39/01
C-46	An Act to amend the Criminal Code (alcohol ignition interlock device programs)	01/12/10	01/12/12	Committee of the Whole	01/12/12	0	01/12/13	01/12/18	37/01

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
C-49	An Act to implement certain provisions of the budget tabled in Parliament on December 10, 2001	02/03/19	02/03/20	National Finance	02/03/25	0	02/03/27	02/03/27	9 02
C-51	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2002	02/03/20	02/03/25	--	--	--	02/03/26	02/03/27	5 02
C-52	An Act for granting to Her Majesty certain sums of money for the public service of Canada for the financial year ending March 31, 2003	02/03/20	02/03/26	--	--	--	02/03/27	02/03/27	6 02

## COMMONS PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
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## SENATE PUBLIC BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-6	An Act to assist in the prevention of wrongdoing in the Public Service by establishing a framework for education on ethical practices in the workplace, for dealing with allegations of wrongdoing and for protecting whistleblowers (Sen. Kinsella)	01/01/31	01/01/31	National Finance	01/03/28	5	referred back to Committee 01/10/23		
S-7	An Act to amend the Broadcasting Act (Sen. Finestone, P.C.)	01/01/31	01/02/07	Transport and Communications	01/06/05	0	01/06/07		
S-8	An Act to maintain the principles relating to the role of the Senate as established by the Constitution of Canada (Sen. Joyal, P.C.)	01/01/31	01/05/09	Rules, Procedures and the Rights of Parliament					
S-9	An Act to remove certain doubts regarding the meaning of marriage (Sen. Cools)	01/01/31							
S-10	An Act to amend the Parliament of Canada Act (Parliamentary Poet Laureate) (Sen. Grafstein)	01/01/31	01/02/08	--	--	--	01/02/08	01/12/18	36 01
							Senate agreed to Commons amendment 01/12/12		
S-12	An Act to amend the Statistics Act and the National Archives of Canada Act (census records) (Sen. Milne)	01/02/07	01/03/27	Social Affairs, Science and Technology	01/12/14	0	referred back to Committee 02/03/25		
S-13	An Act respecting the declaration of royal assent by the Governor General in the Queen's name to bills passed by the Houses of Parliament (Sen. Lynch-Staunton)	01/02/07	01/05/02	Rules, Procedures and the Rights of Parliament (Committee discharged from consideration—Bill withdrawn 01/10/02)					



No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-14	An Act respecting Sir John A. Macdonald Day and Sir Wilfrid Laurier Day (Sen. Lynch-Staunton)	01/02/07	01/02/20	Social Affairs, Science and Technology	01/04/26	0	01/05/01	02/03/21	2/02
S-15	An Act to enable and assist the Canadian tobacco industry in attaining its objective of preventing the use of tobacco products by young persons in Canada (Sen. Kenny)	01/02/07	01/03/01	Energy, the Environment and Natural Resources	01/05/10	0	01/05/15	<i>Bill withdrawn pursuant to Commons Speaker's Ruling</i> 01/06/12	
S-18	An Act to Amend the Food and Drugs Act (clean drinking water) (Sen. Grafstein)	01/02/20	01/04/24	Social Affairs, Science and Technology (withdrawn) 01/05/10 Energy, the Environment and Natural Resources	01/11/27	0			
S-19	An Act to amend the Canada Transportation Act (Sen. Kirby)	01/02/21	01/05/17	Transport and Communications					
S-20	An Act to provide for increased transparency and objectivity in the selection of suitable individuals to be named to certain high public positions (Sen. Stratton)	01/03/12							
S-21	An Act to guarantee the human right to privacy (Sen. Finestone, P.C.)	01/03/13		(Subject-matter 01/04/26 Social Affairs, Science and Technology)	(01/12/14)				
S-22	An Act to provide for the recognition of the Canadian Horse as the national horse of Canada (Sen. Murray, P.C.)	01/03/21	01/06/11	Agriculture and Forestry	01/10/31	4	01/11/08		
S-26	An Act concerning personal watercraft in navigable waters (Sen. Spivak)	01/05/02	01/06/05	Transport and Communications					
S-29	An Act to amend the Broadcasting Act (review of decisions) (Sen. Gauthier)	01/06/11	01/10/31	Transport and Communications					
S-30	An Act to amend the Canada Corporations Act (corporations sole) (Sen. Atkins)	01/06/12	01/11/08	Banking, Trade and Commerce					
S-32	An Act to amend the Official Languages Act (fostering of English and French) (Sen. Gauthier)	01/09/19	01/11/20	Legal and Constitutional Affairs					
S-35	An Act to honour Louis Riel and the Métis People (Sen. Chalifoux)	01/12/04							
S-36	An Act respecting Canadian citizenship (Sen. Kinsella)	01/12/04							
S-37	An Act respecting a National Acadian Day (Sen. Comeau)	01/12/13	02/03/27	Social Affairs, Science and Technology					
S-38	An Act declaring the Crown's recognition of self-government for the First Nations of Canada (Sen. St. Germain, P.C.)	02/02/06							
S-39	An Act to amend the National Anthem Act to include all Canadians (Sen. Poy)	02/02/19							

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-42	An Act to amend the Canada Post Corporation Act (householder mailings) (Sen. Taylor)	02/03/26							

## PRIVATE BILLS

No.	Title	1st	2nd	Committee	Report	Amend	3rd	R.A.	Chap.
S-25	An Act to amend the Act of incorporation of the Conference of Mennonites in Canada (Sen. Kroft)	01/03/29	01/04/04	Legal and Constitutional Affairs	01/04/26	1	01/05/02	01/06/14	42/01
S-27	An Act to authorize The Imperial Life Assurance Company of Canada to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	43/01
S-28	An Act to authorize Certas Direct Insurance Company to apply to be continued as a company under the laws of the Province of Quebec (Sen. Joyal, P.C.)	01/05/17	01/05/29	Legal and Constitutional Affairs	01/05/31	0	01/05/31	01/06/14	44/01

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